

AMENDED IN ASSEMBLY JUNE 22, 2006

AMENDED IN SENATE APRIL 18, 2006

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1472

Introduced by Senator Figueroa

February 23, 2006

An act to amend Sections 101, 205, 1601.1, 1616.5, 1621, 1670.1, 1680, 1721, 1725, 1741, 1742, 1770, 1771, 4999.2, and 4999.7 of, to add Article 9 (commencing with Section 1900) to Chapter 4 of Division 2 of, and to repeal Sections 1760, 1760.5, 1761, 1762, 1763, 1764, 1765, 1766, 1768, 1769, 1772, 1774, and 1775 of, the Business and Professions Code, to amend Section 44876 of the Education Code, to amend Sections 1348.8 and 128160 of the Health and Safety Code, and to amend Section 14132 of the Welfare and Institutions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1472, as amended, Figueroa. Dentistry: dental hygienists.

(1) Existing law provides for the licensure and regulation of the practice of dentistry by the Dental Board of California, and authorizes the board to appoint an executive officer. Existing law also establishes the Committee on Dental Auxiliaries within the jurisdiction of the board. The provisions establishing the board, authorizing the board to appoint an executive officer, and establishing the committee are inoperative as of July 1, 2008, and are repealed as of January 1, 2009.

This bill would instead make these provisions inoperative on July 1, 2009, and would repeal them on January 1, 2010.

(2) Existing law, the Dental Practice Act, provides for the licensure and regulation of dental auxiliaries. Under that act, dental auxiliaries are defined as including, among others, dental assistants, registered dental hygienists, registered dental hygienists in extended functions, and registered dental hygienists in alternative practice. The act makes the Committee on Dental Auxiliaries responsible for licensing those who practice as a dental auxiliary and makes the Dental Board of California responsible for all disciplinary actions against a dental auxiliary and for approving all of their continuing education requirements. Under the act, fees collected in connection with the practice of a dental auxiliary are deposited into the State Dental Auxiliary Fund, in the Professions and Vocations Fund, which is continuously appropriated.

This bill would create the California Dental Hygiene Bureau in the Department of Consumer Affairs, and would *create the Dental Hygiene Advisory Committee in the bureau, to assist the bureau as specified. The bill would* establish specific criteria for licensure by the bureau of a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended practice. The bill would set forth the bureau's functions *and duties*, including issuing, reviewing, and revoking licenses, developing and administering examinations, ~~and~~ determining fees and education programs and continuing education requirements for a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions, *and adopting regulations.*

This bill would create the State Dental Hygiene Fund in the Professions and Vocations Fund and would require that fees paid by licensees and certain fines be deposited into the fund. The bill would continuously appropriate certain moneys in the fund to the bureau to carry out the purposes of the bill. The bill would require a transfer of a specified amount into the fund from the State Dental Auxiliary Fund.

This bill would specify acts that would constitute unprofessional conduct, and would also specify acts that would constitute crimes. *The bill would require the bureau to establish a diversion program for licensees whose competency may be impaired due to drug or alcohol abuse and to establish diversion evaluation committees, with specified duties in that regard.*

Because a violation of certain provisions of the bill would be a crime, the bill would create a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 101 of the Business and Professions
2 Code is amended to read:
3 101. The department is comprised of:
4 (a) The Dental Board of California.
5 (b) The Medical Board of California.
6 (c) The State Board of Optometry.
7 (d) The California State Board of Pharmacy.
8 (e) The Veterinary Medical Board.
9 (f) The California Board of Accountancy.
10 (g) The California Architects Board.
11 (h) The Bureau of Barbering and Cosmetology.
12 (i) The Board for Professional Engineers and Land Surveyors.
13 (j) The Contractors' State License Board.
14 (k) The Bureau for Private Postsecondary and Vocational
15 Education.
16 (l) The Structural Pest Control Board.
17 (m) The Bureau of Home Furnishings and Thermal Insulation.
18 (n) The Board of Registered Nursing.
19 (o) The Board of Behavioral Sciences.
20 (p) The State Athletic Commission.
21 (q) The Cemetery and Funeral Bureau.
22 (r) The State Board of Guide Dogs for the Blind.
23 (s) The Bureau of Security and Investigative Services.
24 (t) The Court Reporters Board of California.
25 (u) The Board of Vocational Nursing and Psychiatric
26 Technicians.
27 (v) The Landscape Architects Technical Committee.

- 1 (w) The Bureau of Electronic and Appliance Repair.
- 2 (x) The Division of Investigation.
- 3 (y) The Bureau of Automotive Repair.
- 4 (z) The State Board of Registration for Geologists and
- 5 Geophysicists.
- 6 (aa) The Respiratory Care Board of California.
- 7 (ab) The Acupuncture Board.
- 8 (ac) The Board of Psychology.
- 9 (ad) The California Board of Podiatric Medicine.
- 10 (ae) The Physical Therapy Board of California.
- 11 (af) The Arbitration Review Program.
- 12 (ag) The Committee on Dental Auxiliaries.
- 13 (ah) The Hearing Aid Dispensers Bureau.
- 14 (ai) The Physician Assistant Committee.
- 15 (aj) The Speech-Language Pathology and Audiology Board.
- 16 (ak) The California Board of Occupational Therapy.
- 17 (al) The Osteopathic Medical Board of California.
- 18 (am) The Bureau of Naturopathic Medicine.
- 19 (an) The California Dental Hygiene Bureau.
- 20 (ao) Any other boards, offices, or officers subject to its
- 21 jurisdiction by law.
- 22 SEC. 2. Section 205 of the Business and Professions Code is
- 23 amended to read:
- 24 205. (a) There is in the State Treasury the Professions and
- 25 Vocations Fund. The fund shall consist of the following special
- 26 funds:
- 27 (1) Accountancy Fund.
- 28 (2) California Board of Architectural Examiners' Fund.
- 29 (3) Athletic Commission Fund.
- 30 (4) Barbering and Cosmetology Contingent Fund.
- 31 (5) Cemetery Fund.
- 32 (6) Contractors' License Fund.
- 33 (7) State Dentistry Fund.
- 34 (8) State Funeral Directors and Embalmers Fund.
- 35 (9) Guide Dogs for the Blind Fund.
- 36 (10) Bureau of Home Furnishings and Thermal Insulation
- 37 Fund.
- 38 (11) California Board of Architectural Examiners-Landscape
- 39 Architects Fund.
- 40 (12) Contingent Fund of the Medical Board of California.

- 1 (13) Optometry Fund.
- 2 (14) Pharmacy Board Contingent Fund.
- 3 (15) Physical Therapy Fund.
- 4 (16) Private Investigator Fund.
- 5 (17) Professional Engineers' and Land Surveyors' Fund.
- 6 (18) Consumer Affairs Fund.
- 7 (19) Behavioral Sciences Fund.
- 8 (20) Licensed Midwifery Fund.
- 9 (21) Court Reporters' Fund.
- 10 (22) Structural Pest Control Fund.
- 11 (23) Veterinary Medical Board Contingent Fund.
- 12 (24) Vocational Nurses Account of the Vocational Nursing
- 13 and Psychiatric Technicians Fund.
- 14 (25) State Dental Auxiliary Fund.
- 15 (26) Electronic and Appliance Repair Fund.
- 16 (27) Geology and Geophysics Fund.
- 17 (28) Dispensing Opticians Fund.
- 18 (29) Acupuncture Fund.
- 19 (30) Hearing Aid Dispensers Fund.
- 20 (31) Physician Assistant Fund.
- 21 (32) Board of Podiatric Medicine Fund.
- 22 (33) Psychology Fund.
- 23 (34) Respiratory Care Fund.
- 24 (35) Speech-Language Pathology and Audiology Fund.
- 25 (36) Board of Registered Nursing Fund.
- 26 (37) Psychiatric Technician Examiners Account of the
- 27 Vocational Nursing and Psychiatric Technicians Fund.
- 28 (38) Animal Health Technician Examining Committee Fund.
- 29 (39) Structural Pest Control Education and Enforcement Fund.
- 30 (40) Structural Pest Control Research Fund.
- 31 (41) State Dental Hygiene Fund.
- 32 (b) For accounting and recordkeeping purposes, the
- 33 Professions and Vocations Fund shall be deemed to be a single
- 34 special fund, and each of the several special funds therein shall
- 35 constitute and be deemed to be a separate account in the
- 36 Professions and Vocations Fund. Each account or fund shall be
- 37 available for expenditure only for the purposes as are now or may
- 38 hereafter be provided by law.
- 39 SEC. 3. Section 1601.1 of the Business and Professions Code
- 40 is amended to read:

1 1601.1. (a) There shall be in the Department of Consumer
2 Affairs the Dental Board of California in which the
3 administration of this chapter is vested. The board shall consist of
4 eight practicing dentists, one registered dental hygienist, one
5 registered dental assistant, and four public members. Of the eight
6 practicing dentists, one shall be a member of a faculty of any
7 California dental college and one shall be a dentist practicing in a
8 nonprofit community clinic. The appointing powers, described in
9 Section 1603, may appoint to the board a person who was a
10 member of the prior board. The board shall be organized into
11 standing committees dealing with examinations, enforcement,
12 and other subjects as the board deems appropriate.

13 (b) For purposes of this chapter, any reference in this chapter
14 to the Board of Dental Examiners shall be deemed to refer to the
15 Dental Board of California.

16 (c) The board shall have all authority previously vested in the
17 existing board under this chapter. The board may enforce all
18 disciplinary actions undertaken by the previous board.

19 (d) This section shall become inoperative on July 1, 2009, and,
20 as of January 1, 2010, is repealed, unless a later enacted statute
21 that is enacted before January 1, 2010, deletes or extends the
22 dates on which it becomes inoperative and is repealed. The repeal
23 of this section renders the board subject to the review required by
24 Division 1.2 (commencing with Section 473).

25 SEC. 4. Section 1616.5 of the Business and Professions Code
26 is amended to read:

27 1616.5. (a) The board, by and with the approval of the
28 director, may appoint a person exempt from civil service who
29 shall be designated as an executive officer and who shall exercise
30 the powers and perform the duties delegated by the board and
31 vested in him or her by this chapter.

32 (b) This section shall become inoperative on July 1, 2009, and,
33 as of January 1, 2010, is repealed, unless a later enacted statute
34 that is enacted before January 1, 2010, deletes or extends the
35 dates on which it becomes inoperative and is repealed.

36 SEC. 5. Section 1621 of the Business and Professions Code is
37 amended to read:

38 1621. The board shall utilize in the administration of its
39 licensure examinations only examiners whom it has appointed
40 and who meet the following criteria:

1 (a) Possession of a valid license to practice dentistry in this
2 state or possession of a valid license in one of the following
3 categories: registered dental assistant, registered dental assistant
4 in extended functions, registered dental hygienist, registered
5 dental hygienist in extended functions, or registered dental
6 hygienist in alternative practice.

7 (b) Practice as a licensed dentist or in a licensure category
8 described in subdivision (a) for at least five years preceding his
9 or her appointment.

10 (c) Hold no position as an officer or faculty member at any
11 college, school, or institution that provides dental instruction in
12 the same licensure category as that held by the examiner.

13 SEC. 6. Section 1670.1 of the Business and Professions Code
14 is amended to read:

15 1670.1. (a) Any licentiate under this chapter may have his or
16 her license revoked or suspended or be reprimanded or be placed
17 on probation by the board for conviction of a crime substantially
18 related to the qualifications, functions, or duties of a dentist,
19 dental auxiliary, or dental hygienist, in which case the record of
20 conviction or a certified copy thereof, certified by the clerk of the
21 court or by the judge in whose court the conviction is had, shall
22 be conclusive evidence.

23 (b) The board shall undertake proceedings under this section
24 upon the receipt of a certified copy of the record of conviction. A
25 plea or verdict of guilty or a conviction following a plea of nolo
26 contendere made to a charge of a felony or of any misdemeanor
27 substantially related to the qualifications, functions, or duties of a
28 dentist, dental auxiliary, or dental hygienist is deemed to be a
29 conviction within the meaning of this section. The board may
30 order the license suspended or revoked, or may decline to issue a
31 license, when the time for appeal has elapsed, or the judgment of
32 conviction has been affirmed on appeal or when an order
33 granting probation is made suspending the imposition of
34 sentence, irrespective of a subsequent order under any provision
35 of the Penal Code, including, but not limited to, Section 1203.4
36 of the Penal Code, allowing the person to withdraw his or her
37 plea of guilty and to enter a plea of not guilty, or setting aside the
38 verdict of guilty, or dismissing the accusation, information, or
39 indictment.

1 SEC. 7. Section 1680 of the Business and Professions Code is
2 amended to read:

3 1680. Unprofessional conduct by a person licensed under this
4 chapter is defined as, but is not limited to, any one of the
5 following:

6 (a) The obtaining of any fee by fraud or misrepresentation.

7 (b) The employment directly or indirectly of any student or
8 suspended or unlicensed dentist to practice dentistry as defined in
9 this chapter.

10 (c) The aiding or abetting of any unlicensed person to practice
11 dentistry.

12 (d) The aiding or abetting of a licensed person to practice
13 dentistry unlawfully.

14 (e) The committing of any act or acts of sexual abuse,
15 misconduct, or relations with a patient that are substantially
16 related to the practice of dentistry.

17 (f) The use of any false, assumed, or fictitious name, either as
18 an individual, firm, corporation, or otherwise, or any name other
19 than the name under which he or she is licensed to practice, in
20 advertising or in any other manner indicating that he or she is
21 practicing or will practice dentistry, except that name as is
22 specified in a valid permit issued pursuant to Section 1701.5.

23 (g) The practice of accepting or receiving any commission or
24 the rebating in any form or manner of fees for professional
25 services, radiograms, prescriptions, or other services or articles
26 supplied to patients.

27 (h) The making use by the licensee or any agent of the licensee
28 of any advertising statements of a character tending to deceive or
29 mislead the public.

30 (i) The advertising of either professional superiority or the
31 advertising of performance of professional services in a superior
32 manner. This subdivision shall not prohibit advertising permitted
33 by subdivision (h) of Section 651.

34 (j) The employing or the making use of solicitors.

35 (k) The advertising in violation of Section 651.

36 (l) The advertising to guarantee any dental service, or to
37 perform any dental operation painlessly. This subdivision shall
38 not prohibit advertising permitted by Section 651.

39 (m) The violation of any of the provisions of law regulating
40 the procurement, dispensing, or administration of dangerous

1 drugs, as defined in Chapter 9 (commencing with Section 4000),
2 or controlled substances, as defined in Division 10 (commencing
3 with Section 11000) of the Health and Safety Code.

4 (n) The violation of any of the provisions of this division.

5 (o) The permitting of any person to operate dental
6 radiographic equipment who has not met the requirements of
7 Section 1656.

8 (p) The clearly excessive prescribing or administering of drugs
9 or treatment, or the clearly excessive use of diagnostic
10 procedures, or the clearly excessive use of diagnostic or
11 treatment facilities, as determined by the customary practice and
12 standards of the dental profession.

13 Any person who violates this subdivision is guilty of a
14 misdemeanor and shall be punished by a fine of not less than one
15 hundred dollars (\$100) or more than six hundred dollars (\$600),
16 or by imprisonment for a term of not less than 60 days or more
17 than 180 days, or by both a fine and imprisonment.

18 (q) The use of threats or harassment against any patient or
19 licensee for providing evidence in any possible or actual
20 disciplinary action, or other legal action; or the discharge of an
21 employee primarily based on the employee's attempt to comply
22 with the provisions of this chapter or to aid in the compliance.

23 (r) Suspension or revocation of a license issued, or discipline
24 imposed, by another state or territory on grounds which would be
25 the basis of discipline in this state.

26 (s) The alteration of a patient's record with intent to deceive.

27 (t) Unsanitary or unsafe office conditions, as determined by
28 the customary practice and standards of the dental profession.

29 (u) The abandonment of the patient by the licensee, without
30 written notice to the patient that treatment is to be discontinued
31 and before the patient has ample opportunity to secure the
32 services of another dentist or dental hygienist and provided the
33 health of the patient is not jeopardized.

34 (v) The willful misrepresentation of facts relating to a
35 disciplinary action to the patients of a disciplined licensee.

36 (w) Use of fraud in the procurement of any license issued
37 pursuant to this chapter.

38 (x) Any action or conduct that would have warranted the
39 denial of the license.

1 (y) The aiding or abetting of a licensed dentist, dental
2 auxiliary, or dental hygienist to practice dentistry in a negligent
3 or incompetent manner.

4 (z) The failure to report to the board in writing within seven
5 days any of the following: (1) the death of his or her patient
6 during the performance of any dental or dental hygiene
7 procedure; (2) the discovery of the death of a patient whose death
8 is related to a dental or dental hygiene procedure performed by
9 him or her; or (3) except for a scheduled hospitalization, the
10 removal to a hospital or emergency center for medical treatment
11 for a period exceeding 24 hours of any patient to whom oral
12 conscious sedation, conscious sedation, or general anesthesia was
13 administered, or any patient as a result of dental or dental
14 hygiene treatment. With the exception of patients to whom oral
15 conscious sedation, conscious sedation, or general anesthesia was
16 administered, removal to a hospital or emergency center that is
17 the normal or expected treatment for the underlying dental
18 condition is not required to be reported. Upon receipt of a report
19 pursuant to this subdivision the board may conduct an inspection
20 of the dental office if the board finds that it is necessary.

21 (aa) Participating in or operating any group advertising and
22 referral services that are in violation of Section 650.2.

23 (bb) The failure to use a fail-safe machine with an appropriate
24 exhaust system in the administration of nitrous oxide. The board
25 shall, by regulation, define what constitutes a fail-safe machine.

26 (cc) Engaging in the practice of dentistry or dental hygiene
27 with an expired license.

28 (dd) Except for good cause, the knowing failure to protect
29 patients by failing to follow infection control guidelines of the
30 board, thereby risking transmission of blood-borne infectious
31 diseases from dentist, dental auxiliary, or dental hygienist to
32 patient, from patient to patient, and from patient to dentist, dental
33 auxiliary, or dental hygienist. In administering this subdivision,
34 the board shall consider referencing the standards, regulations,
35 and guidelines of the State Department of Health Services
36 developed pursuant to Section 1250.11 of the Health and Safety
37 Code and the standards, guidelines, and regulations pursuant to
38 the California Occupational Safety and Health Act of 1973 (Part
39 1 (commencing with Section 6300) of Division 5 of the Labor
40 Code) for preventing the transmission of HIV, hepatitis B, and

1 other blood-borne pathogens in health care settings. As
2 necessary, the board shall consult with the Medical Board of
3 California, the California Board of Podiatric Medicine, the Board
4 of Registered Nursing, and the Board of Vocational Nursing and
5 Psychiatric Technicians, to encourage appropriate consistency in
6 the implementation of this subdivision.

7 The board shall seek to ensure that licensees and others
8 regulated by the board are informed of the responsibility of
9 licensees and others to follow infection control guidelines, and of
10 the most recent scientifically recognized safeguards for
11 minimizing the risk of transmission of blood-borne infectious
12 diseases.

13 (ee) The utilization by a licensed dentist of any person to
14 perform the functions of a registered dental assistant, registered
15 dental assistant in extended functions, registered dental hygienist,
16 or registered dental hygienist in extended functions who, at the
17 time of initial employment, does not possess a current, valid
18 license to perform those functions.

19 (ff) The prescribing, dispensing, or furnishing of dangerous
20 drugs or devices, as defined in Section 4022, in violation of
21 Section 2242.1.

22 SEC. 8. Section 1721 of the Business and Professions Code is
23 amended to read:

24 1721. Except as provided in Sections 1721.5 and 1945, all
25 funds received by the State Treasurer under the authority of this
26 chapter shall be placed in the State Dentistry Fund. Except as
27 provided in Sections 1721.5 and 1945, all disbursements by the
28 board made in the transaction of its business and in the
29 enforcement of this chapter shall be paid out of the fund upon
30 claims against the state.

31 SEC. 9. Section 1725 of the Business and Professions Code is
32 amended to read:

33 1725. The amount of the fees prescribed by this chapter that
34 relate to the licensing of dental auxiliaries shall be established by
35 board resolution and subject to the following limitations:

36 (a) The application fee for an original license shall not exceed
37 twenty dollars (\$20).

38 (b) The fee for examination for licensure as a registered dental
39 assistant shall not exceed fifty dollars (\$50) for the written
40 examination and shall not exceed sixty dollars (\$60) for the

1 practical examination. On and after January 1, 2008, the
2 application fee and the fee for issuance of a license as a
3 registered orthodontic assistant, registered surgery assistant,
4 registered restorative assistant, or registered dental assistant shall
5 not exceed fifty dollars (\$50).

6 (c) The fee for examination for licensure as a registered dental
7 assistant in extended functions or a registered restorative
8 assistant in extended functions shall not exceed two hundred fifty
9 dollars (\$250).

10 (d) The biennial renewal fee for a dental auxiliary whose
11 license expires on or after January 1, 1991, shall not exceed sixty
12 dollars (\$60). On or after January 1, 1992, the board may set the
13 renewal fee in an amount not to exceed eighty dollars (\$80).

14 (e) The delinquency fee shall not exceed twenty-five dollars
15 (\$25) or one-half of the renewal fee, whichever is greater. Any
16 delinquent license may be restored only upon payment of all fees,
17 including the delinquency fee.

18 (f) The fee for issuance of a duplicate registration, license, or
19 certificate to replace one that is lost or destroyed, or in the event
20 of a name change, shall not exceed twenty-five dollars (\$25).

21 (g) The fee for each curriculum review and site evaluation for
22 educational programs for registered dental assistants that are not
23 accredited by a board-approved agency, the Council for Private
24 Postsecondary and Vocational Education, or the Chancellor's
25 office of the California Community Colleges shall not exceed
26 one thousand four hundred dollars (\$1,400).

27 (h) The fee for each review of radiation safety courses or
28 specialty registration courses that are not accredited by a
29 board-approved agency, the Council for Private Postsecondary
30 and Vocational Education, or the Chancellor's office of the
31 California Community Colleges shall not exceed three hundred
32 dollars (\$300).

33 (i) No fees or charges other than those listed in subdivisions
34 (a) through (g) above shall be levied by the board in connection
35 with the licensure of dental auxiliaries, registered dental
36 assistants educational program site evaluations and radiation
37 safety course evaluations pursuant to this chapter.

38 (j) Fees fixed by the board pursuant to this section shall not be
39 subject to the approval of the Office of Administrative Law.

1 (k) Fees collected pursuant to this section shall be deposited in
2 the State Dental Auxiliary Fund.

3 SEC. 10. Section 1741 of the Business and Professions Code
4 is amended to read:

5 1741. As used in this article:

6 (a) “Board” means the Dental Board of California.

7 (b) “Committee” means the Committee on Dental Auxiliaries.

8 (c) “Direct supervision” means supervision of dental
9 procedures based on instructions given by a licensed dentist, who
10 must be physically present in the treatment facility during the
11 performance of those procedures.

12 (d) “General supervision” means supervision of dental
13 procedures based on instructions given by a licensed dentist but
14 not requiring the physical presence of the supervising dentist
15 during the performance of those procedures.

16 (e) “Dental auxiliary” means a person who may perform
17 dental assisting authorized by this article.

18 SEC. 11. Section 1742 of the Business and Professions Code
19 is amended to read:

20 1742. (a) There is within the jurisdiction of the board a
21 Committee on Dental Auxiliaries.

22 (b) The Committee on Dental Auxiliaries shall have the
23 following areas of responsibility and duties:

24 (1) The committee shall have the following duties and
25 authority related to education programs and curriculum:

26 (A) Shall evaluate all dental auxiliary programs applying for
27 board approval in accordance with board rules governing the
28 programs.

29 (B) May appoint board members to any evaluation committee.
30 Board members so appointed shall not make a final decision on
31 the issue of program or course approval.

32 (C) Shall report and make recommendations to the board as to
33 whether a program or course qualifies for approval. The board
34 retains the final authority to grant or deny approval to a program
35 or course.

36 (D) Shall review and document any alleged deficiencies that
37 might warrant board action to withdraw or revoke approval of a
38 program or course, at the request of the board.

1 (E) May review and document any alleged deficiencies that
2 might warrant board action to withdraw or revoke approval of a
3 program or course, at its own initiation.

4 (2) The committee shall have the following duties and
5 authority related to applications:

6 (A) Shall review and evaluate all applications for licensure in
7 the various dental auxiliary categories to ascertain whether a
8 candidate meets the appropriate licensing requirements specified
9 by statute and board regulations.

10 (B) Shall maintain application records, cashier application
11 fees, and perform any other ministerial tasks as are incidental to
12 the application process.

13 (C) May delegate any or all of the functions in this paragraph
14 to its staff.

15 (D) Shall issue auxiliary licenses in all cases, except where
16 there is a question as to a licensing requirement. The board
17 retains final authority to interpret any licensing requirement. If a
18 question arises in the area of interpreting any licensing
19 requirement, it shall be presented by the committee to the board
20 for resolution.

21 (3) The committee shall have the following duties and
22 authority regarding examinations:

23 (A) Shall advise the board as to the type of license
24 examination it deems appropriate for the various dental auxiliary
25 license categories.

26 (B) Shall, at the direction of the board, develop or cause to be
27 developed, administer, or both, examinations in accordance with
28 the board's instructions and periodically report to the board on
29 the progress of those examinations. The following shall apply to
30 the examination procedure:

31 (i) The examination shall be submitted to the board for its
32 approval prior to its initial administration.

33 (ii) Once an examination has been approved by the board, no
34 further approval is required unless a major modification is made
35 to the examination.

36 (iii) The committee shall report to the board on the results of
37 each examination and shall, where appropriate, recommend pass
38 points.

39 (iv) The board shall set pass points for all dental auxiliary
40 licensing examinations.

1 (C) May appoint board members to any examination
2 committee established pursuant to subparagraph (B).

3 (4) The committee shall periodically report and make
4 recommendations to the board concerning the level of fees for
5 dental auxiliaries and the need for any legislative fee increase.
6 However, the board retains final authority to set all fees.

7 (5) The committee shall be responsible for all aspects of the
8 license renewal process, which shall be accomplished in
9 accordance with this chapter and board regulations. The
10 committee may delegate any or all of its functions under this
11 paragraph to its staff.

12 (6) The committee shall have no authority with respect to the
13 approval of continuing education providers; the board retains all
14 of this authority.

15 (7) The committee shall advise the board as to appropriate
16 standards of conduct for auxiliaries, the proper ordering of
17 enforcement priorities, and any other enforcement-related matters
18 that the board may, in the future, delegate to the committee. The
19 board shall retain all authority with respect to the enforcement
20 actions, including, but not limited to, complaint resolution,
21 investigation, and disciplinary action against auxiliaries.

22 (8) The committee shall have the following duties regarding
23 regulations:

24 (A) To review and evaluate all suggestions or requests for
25 regulatory changes related to dental auxiliaries.

26 (B) To report and make recommendations to the board, after
27 consultation with departmental legal counsel and the board's
28 executive officer.

29 (C) To include in any report regarding a proposed regulatory
30 change, at a minimum, the specific language of the proposed
31 changes and the reasons for and facts supporting the need for the
32 change. The board has the final rulemaking authority.

33 (c) This section shall become inoperative on July 1, 2009, and,
34 as of January 1, 2010, is repealed, unless a later enacted statute
35 which becomes effective on or before January 1, 2010, deletes or
36 extends the dates on which it becomes inoperative and is
37 repealed. The repeal of this section renders the committee subject
38 to the review required by Division 1.2 (commencing with Section
39 473).

1 SEC. 12. Section 1760 of the Business and Professions Code
2 is repealed.

3 SEC. 13. Section 1760.5 of the Business and Professions
4 Code is repealed.

5 SEC. 14. Section 1761 of the Business and Professions Code
6 is repealed.

7 SEC. 15. Section 1762 of the Business and Professions Code
8 is repealed.

9 SEC. 16. Section 1763 of the Business and Professions Code
10 is repealed.

11 SEC. 17. Section 1764 of the Business and Professions Code
12 is repealed.

13 SEC. 18. Section 1765 of the Business and Professions Code
14 is repealed.

15 SEC. 19. Section 1766 of the Business and Professions Code
16 is repealed.

17 SEC. 20. Section 1768 of the Business and Professions Code
18 is repealed.

19 SEC. 21. Section 1769 of the Business and Professions Code
20 is repealed.

21 SEC. 22. Section 1770 of the Business and Professions Code,
22 as amended by Section 22 of Chapter 621 of the Statutes of 2005,
23 is amended to read:

24 1770. (a) A licensed dentist may simultaneously utilize in his
25 or her practice no more than two dental auxiliaries in extended
26 functions or dental hygienists in extended functions licensed
27 pursuant to Sections 1756 and 1918.

28 (b) This section shall become inoperative on December 31,
29 2007, and, as of January 1, 2008, is repealed, unless a later
30 enacted statute, that is enacted before January 1, 2008, deletes or
31 extends the dates on which it becomes inoperative and is
32 repealed.

33 SEC. 23. Section 1770 of the Business and Professions Code,
34 as amended by Section 23 of Chapter 621 of the Statutes of 2005,
35 is amended to read:

36 1770. (a) A licensed dentist may simultaneously utilize in his
37 or her practice no more than three dental auxiliaries in extended
38 functions or dental hygienists in extended functions licensed
39 pursuant to Sections 1753 and 1918.

40 (b) This section shall become operative on January 1, 2008.

SEC. 24. Section 1771 of the Business and Professions Code is amended to read:

1771. Any person, other than a person who has been issued a license by the board, who holds himself or herself out as a registered dental assistant or registered dental assistant in extended functions, or uses any other term indicating or implying he or she is licensed by the board in the aforementioned categories, is guilty of a misdemeanor.

SEC. 25. Section 1772 of the Business and Professions Code is repealed.

SEC. 26. Section 1774 of the Business and Professions Code is repealed.

SEC. 27. Section 1775 of the Business and Professions Code is repealed.

SEC. 28. Article 9 (commencing with Section 1900) is added to Chapter 4 of Division 2 of the Business and Professions Code, to read:

Article 9. Dental Hygienists

1900. It is the intent of the Legislature by enactment of this article to permit the full utilization of dental hygienists in order to meet the dental care needs of all of the state's citizens.

1901. There is hereby created in the Department of Consumer Affairs a California Dental Hygiene Bureau in which the administration of this article is vested.

1902. For purposes of this article, the following definitions apply:

(a) "Bureau" means the California Dental Hygiene Bureau.

(b) "*Committee*" means the Dental Hygiene Advisory Committee.

(c) "Dental board" means the Dental Board of California.

~~(e)~~

(d) "Direct supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who is required to be physically present in the treatment facility during the performance of those procedures.

~~(d)~~

(e) "General supervision" means the supervision of dental procedures based on instructions given by a licensed dentist who

1 is not required to be physically present in the treatment facility
2 during the performance of those procedures.

3 (e)

4 (f) “Oral prophylaxis” means preventive and therapeutic dental
5 procedures that include bacterial debridement with complete
6 removal, supra and subgingivally, of calculus, soft deposits,
7 plaque, and stains, and the smoothing of tooth surfaces. The
8 objective of this treatment is to create an environment in which
9 the patient can maintain healthy hard and soft tissues.

10 1903. (a) ~~(1) The bureau~~ *There is in the department the*
11 *California Dental Hygiene Bureau, under the supervision and*
12 *control of the director. The director may appoint a chief at a*
13 *salary to be fixed and determined by the director, with the*
14 *approval of the Director of Finance. The duty of enforcing and*
15 *administering this chapter is vested in the chief, and he or she is*
16 *responsible to the director therefor. The chief shall serve at the*
17 *pleasure of the director. Every power granted or duty imposed*
18 *upon the director under this chapter may be exercised or*
19 *performed in the name of the director by a deputy director or by*
20 *the chief, subject to such conditions and limitations as the*
21 *director may prescribe.*

22 (b) (1) *There is within the bureau a Dental Hygiene Advisory*
23 *Committee. The committee shall consist of nine members*
24 *appointed by the Governor. Four shall be public members, one*
25 *member shall be a licensed public health dentist who holds a*
26 *current license in California, and four members shall be*
27 *registered dental hygienists who hold current licenses in*
28 *California. Of the registered dental hygienists members, one*
29 *shall be licensed either in alternative practice or in extended*
30 *functions, one shall be a dental hygiene educator, and two shall*
31 *be registered dental hygienists holding a current, valid license to*
32 *practice dental hygiene. No. No public member shall have been*
33 *licensed under this chapter within five years of the date of his or*
34 *her appointment to the bureau or have any current financial*
35 *interest in a dental-related business.*

36 (2) For purposes of this subdivision, a public health dentist is
37 a dentist whose primary employer or place of employment is in
38 any of the following:

39 (A) A primary care clinic licensed under subdivision (a) of
40 Section 1204 of the Health and Safety Code.

1 (B) A primary care clinic exempt from licensure pursuant to
2 subdivision (c) of Section 1206 of the Health and Safety Code.

3 (C) A clinic owned or operated by a public hospital or health
4 system.

5 (D) A clinic owned and operated by a hospital that maintains
6 the primary contract with a county government to fill the
7 county's role under Section 17000 of the Welfare and Institutions
8 Code.

9 ~~(b)~~

10 (c) Except for the initial term, members of the ~~bureau~~
11 *committee* shall be appointed for a term of four years. Of the
12 initial appointments, the terms shall expire as follows:

13 (1) The term of the licensed dentist member, one of the public
14 members, and one of the registered dental hygienists shall expire
15 on December 31, 2007.

16 (2) The term of a second public member, the other registered
17 dental hygienist, and the dental hygienist in alternative practice
18 or in extended functions shall expire on December 31, 2008.

19 (3) The term of the remaining members shall expire on
20 December 31, 2009.

21 ~~(e) The bureau~~

22 (d) *The committee* shall annually elect one of its members as
23 president of the ~~bureau~~.

24 ~~(d)~~

25 (e) No person shall serve as a member of the ~~bureau committee~~
26 for more than two consecutive terms.

27 ~~(e)~~

28 (f) A vacancy in the ~~bureau committee~~ shall be filled by
29 appointment to the unexpired term.

30 ~~(f)~~

31 (g) Each member of the ~~bureau committee~~ shall receive a per
32 diem and expenses as provided in Section 103.

33 ~~(g)~~

34 (h) The Governor shall have the power to remove any member
35 from the ~~bureau committee~~ for neglect of a duty required by law
36 or for incompetence or for unprofessional or dishonorable
37 conduct.

38 1904. (a) The ~~bureau committee~~ shall meet at least ~~four~~ *two*
39 times each calendar year and shall conduct additional meetings in
40 appropriate locations that are necessary to transact its business.

~~(b) Special meetings may be held by the bureau at times and locations designated by it.~~

~~(c) The bureau shall provide a minimum of two weeks' notice of its meetings to those persons and organizations who have expressed an interest in receiving this notification.~~

(b) The committee shall do all of the following:

(1) Examine the functions and policies of the bureau and make recommendations with respect to policies, practices, and regulations as may be deemed important and necessary by the director or the chief to promote the interests of consumers or that otherwise promote the welfare of the public.

(2) Consider and make appropriate recommendations to the bureau in all matters relating to dental hygiene in this state.

(3) Provide assistance as may be requested by the bureau in the exercise of its powers or duties.

(c) The chief shall meet and consult with the committee regarding general policy issues related to dental hygiene.

1905. (a) The bureau shall perform the following functions:

~~(1) Evaluating—~~*Evaluate* all registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in extended functions educational programs that apply for approval and granting or denying approval of those applications in accordance with regulations adopted by the bureau. *Any such educational programs approved by the board on or before December 31, 2006, shall be deemed approved by the bureau.*

~~(2) Withdrawing or revoking—~~*Withdraw or revoke* its prior approval of a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions educational program in accordance with regulations adopted by the bureau.

~~(3) Reviewing and evaluating—~~*Review and evaluate* all registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions applications for licensure to ascertain whether the applicant meets the appropriate licensing requirements specified by statute and bureau regulations, ~~maintaining~~ *maintain* application records, ~~cashiering~~ *cashier* application fees, ~~issuing~~ *and renewing* *issue and renew* licenses, and ~~performing~~ *perform*

1 any other tasks that are incidental to the application and licensure
2 processes.

3 ~~(4) Determining~~ *Determine* the appropriate type of license
4 examination consistent with the provisions of this article, and
5 ~~developing or causing develop or cause~~ to be developed and
6 ~~administering administer~~ examinations in accordance with
7 regulations adopted by the bureau.

8 ~~(5) Determining~~ *Determine* the amount of fees assessed under
9 this article.

10 ~~(6) Determining and enforcing~~ *Determine and enforce* the
11 continuing education requirements specified in this article.

12 ~~(7) Advising the dental board as to the appropriate standards~~
13 ~~of conduct for a registered dental hygienist, a registered dental~~
14 ~~hygienist in alternative practice, and a registered dental hygienist~~
15 ~~in extended functions, the proper ordering of enforcement~~
16 ~~priorities, and any other enforcement-related matters.~~

17 ~~(8) Adopting~~

18 *(7) Deny, suspend, or revoke a license under this article, or*
19 *otherwise enforce the provisions of this article. Any such*
20 *proceedings shall be conducted in accordance with Chapter 5*
21 *(commencing with Section 11500) of Part 1 of Division 3 of Title*
22 *2 of the Government Code, and the bureau shall have all of the*
23 *powers granted therein.*

24 *(8) Adopt* rules and regulations to implement the provisions of
25 this article, including the required amount of supervision by a
26 licensed dentist of a registered dental hygienist, registered dental
27 hygienist in alternative practice, and registered dental hygienist
28 in extended functions.

29 ~~(9) Hiring an executive officer.~~

30 (b) The bureau may employ employees and examiners that it
31 deems necessary to carry out its functions and responsibilities
32 under this article.

33 *1905.1. Until January 1, 2008, the bureau may contract with*
34 *the dental board, or with the Committee on Dental Auxiliaries, to*
35 *carry out any of the provisions of this article. On and after*
36 *January 1, 2008, the bureau may contract with the dental board*
37 *to perform investigations of applicants and licensees under this*
38 *article.*

39 *1906. (a) The bureau shall adopt regulations to implement*
40 *the requirements of this article.*

(b) All regulations adopted by the bureau shall comply with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b)

(c) No regulation adopted by the bureau shall impose a requirement or a prohibition directly upon a licensed dentist or on the administration of a dental office, unless specifically authorized by this article.

(e)

(d) Unless contrary to the provisions of this article, regulations adopted by the dental board shall continue to apply to registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions until other regulations are adopted by the bureau. All references in those regulations to “board” shall mean the California Dental Hygiene Bureau that shall solely enforce the regulations with respect to registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions.

1907. The following functions may be performed by a registered dental hygienist in addition to those authorized pursuant to Sections 1908 to 1914, inclusive:

(a) All functions that may be performed by a dental assistant ~~or a registered dental assistant.~~

(b) All persons holding a license as a registered dental hygienist ~~on January 1, 2003, or issued a license on or before December 31, 2005~~ *hygienist before January 1, 2006*, are authorized to perform the duties of a registered dental assistant specified in ~~Section 1754 this chapter.~~ All persons issued a license as a registered dental hygienist ~~on and~~ *or* after January 1, 2006, shall qualify for and receive a registered dental assistant license prior to performance of the duties specified in ~~Section 1754 this chapter.~~

1908. (a) The practice of dental hygiene includes dental hygiene assessment, development, planning, and implementation of a dental hygiene care plan. It also includes oral health education, counseling, and health screenings.

(b) The practice of dental hygiene does not include any of the following procedures:

(1) Diagnosis and comprehensive treatment planning.

1 (2) Placing, condensing, carving, or removal of permanent
2 restorations.

3 (3) Surgery or cutting on hard and soft tissue including, but
4 not limited to, the removal of teeth and the cutting and suturing
5 of soft tissue.

6 (4) Prescribing medication.

7 (5) Administering local or general anesthesia or oral or
8 parenteral conscious sedation, except for the administration of
9 nitrous oxide and oxygen, whether administered alone or in
10 combination with each other, or local anesthesia pursuant to
11 Section 1909.

12 1909. A *registered* dental hygienist is authorized to perform
13 the following procedures under direct supervision, after
14 submitting to the bureau evidence of satisfactory completion of a
15 bureau-approved course of instruction in the procedures:

16 (a) Soft-tissue curettage.

17 (b) Administration of local anesthesia.

18 (c) Administration of nitrous oxide and oxygen, whether
19 administered alone or in combination with each other.

20 1910. A *registered* dental hygienist is authorized to perform
21 the following procedures under general supervision:

22 (a) Preventive and therapeutic interventions, including oral
23 prophylaxis, scaling, and root planing.

24 (b) Application of topical, therapeutic, and subgingival agents
25 used for the control of caries and periodontal disease.

26 (c) The taking of impressions for bleaching trays and
27 application and activation of agents with nonlaser, light-curing
28 devices.

29 (d) The taking of impressions for bleaching trays and
30 placements of in-office, tooth-whitening devices.

31 1911. (a) A *registered* dental hygienist may provide, without
32 supervision, educational services, oral health training programs,
33 and oral health screenings.

34 (b) A *registered* dental hygienist shall refer any screened
35 patients with possible oral abnormalities to a dentist for a
36 comprehensive examination, diagnosis, and treatment plan.

37 (c) In any public health program created by federal, state, or
38 local law or administered by a federal, state, county, or local
39 governmental entity, a *registered* dental hygienist may provide,
40 without supervision, dental hygiene preventive services in

1 addition to oral screenings, including, but not limited to, the
2 application of fluorides and pit and fissure sealants.

3 1912. Any procedure performed or service provided by a
4 *registered* dental hygienist that does not specifically require
5 direct supervision shall require general supervision, so long as it
6 does not give rise to a situation in the dentist's office requiring
7 immediate services for alleviation of severe pain, or immediate
8 diagnosis and treatment of unforeseeable dental conditions that,
9 if not immediately diagnosed and treated, would lead to serious
10 disability or death.

11 1913. Unless otherwise specified in this chapter, a *registered*
12 dental hygienist may perform any procedure or provide any
13 service within the scope of his or her practice in any setting, so
14 long as the procedure is performed or the service is provided
15 under the appropriate level of supervision required by this article.

16 1914. A *registered* dental hygienist may use any material or
17 device approved for use in the performance of a service or
18 procedure within his or her scope of practice under the
19 appropriate level of supervision, if ~~the dental hygienist~~ *he or she*
20 has the appropriate education and training required to use the
21 material or device.

22 1915. No person other than a ~~licensed~~ *registered* dental
23 hygienist or a licensed dentist may engage in the practice of
24 dental hygiene or perform dental hygiene procedures on patients,
25 including, but not limited to, supragingival and subgingival
26 scaling, dental hygiene assessment, and treatment planning,
27 except for the following persons:

28 (a) A student enrolled in a dental or a dental hygiene school
29 who is performing procedures as part of the regular curriculum of
30 that program under the supervision of the faculty of that program.

31 (b) A dental assistant acting in accordance with the rules of the
32 board in performing the following procedures:

33 (1) Applying nonaerosol and noncaustic topical agents.

34 (2) Applying topical fluoride.

35 (3) Taking impression for bleaching trays.

36 (c) A registered dental assistant acting in accordance with the
37 rules of the board in performing the following procedures:

38 (1) Polishing the coronal surfaces of teeth.

39 (2) Applying bleaching agents.

1 (3) Activating bleaching agents with a nonlaser light-curing
2 device.

3 (4) *Applying pit and fissure sealant.*

4 (d) A registered dental assistant in extended functions acting
5 in accordance with the rules of the board in applying pit and
6 fissure sealants.

7 (e) A registered dental hygienist licensed in another
8 jurisdiction performing a clinical demonstration for educational
9 purposes.

10 1916. (a) *An applicant for licensure under this article shall*
11 *furnish fingerprint images for submission to state and federal*
12 *criminal justice agencies, including, but not limited to, the*
13 *Federal Bureau of Investigation, in order to establish the identity*
14 *of the applicant and for the other purposes described in this*
15 *section.*

16 (b) *The bureau shall submit the fingerprint images to the*
17 *Department of Justice for the purposes of obtaining criminal*
18 *offender record information regarding state and federal level*
19 *convictions and arrests, including arrests which the Department*
20 *of Justice establishes that the person is free on bail or on his or*
21 *her recognizance pending trial or appeal.*

22 (c) *When received, the Department of Justice shall forward to*
23 *the Federal Bureau of Investigation requests for federal*
24 *summary criminal history information received pursuant to this*
25 *section. The Department of Justice shall review the information*
26 *returned from the Federal Bureau of Investigation and compile*
27 *and disseminate response to the bureau.*

28 (d) *The Department of Justice shall provide a response to the*
29 *bureau pursuant to subdivision (p) of Section 11105 of the Penal*
30 *Code.*

31 (e) *The bureau shall request from the Department of Justice*
32 *subsequent arrest notification service, as provided pursuant to*
33 *Section 11105.2 of the Penal Code.*

34 (f) *The information obtained as a result of the fingerprinting*
35 *shall be used in accordance with Section 11105 of the Penal*
36 *Code, and to determine whether the applicant is subject to denial*
37 *of licensure pursuant to Division 1.5 (commencing with Section*
38 *475), or Section 1628.5.*

39 (g) *The Department of Justice shall charge a fee sufficient to*
40 *cover the cost of processing the request described in this section.*

1 ~~1916. (a)~~

2 1917. The bureau shall license as a registered dental hygienist
3 a person who satisfies all of the following requirements:

4 ~~(1)~~

5 (a) Completion of an educational program for registered dental
6 hygienists, approved by the bureau, accredited by the
7 Commission on Dental Accreditation, and conducted by a
8 degree-granting, postsecondary institution.

9 ~~(2)~~

10 (b) Satisfactory performance on ~~an examination required by~~
11 ~~the bureau.~~

12 ~~(3) a clinical examination and an examination in California~~
13 ~~law and ethics as prescribed by the bureau.~~

14 (c) Satisfactory completion of a national written dental
15 hygiene examination approved by the bureau.

16 ~~(b)~~

17 1917.1. (a) The bureau may grant a license as a registered
18 dental hygienist to an applicant who has not taken ~~an~~ a clinical
19 examination before the bureau, if the applicant submits all of the
20 following to the bureau:

21 (1) A completed application form and all fees required by the
22 bureau.

23 (2) Proof of a current license as a registered dental hygienist
24 issued by another state that is not revoked, suspended, or
25 otherwise restricted.

26 (3) Proof that the applicant has been in clinical practice as a
27 registered dental hygienist or has been a full-time faculty
28 member in an accredited dental hygiene education program for a
29 minimum of 750 hours per year for at least five years preceding
30 the date of his or her application under this section. The clinical
31 practice requirement shall be deemed met if the applicant
32 provides proof of at least three years of clinical practice and
33 commits to completing the remaining two years of clinical
34 practice by filing with the bureau a copy of a pending contract to
35 practice dental hygiene in any of the following facilities:

36 (A) A primary care clinic licensed under subdivision (a) of
37 Section 1204 of the Health and Safety Code.

38 (B) A primary care clinic exempt from licensure pursuant to
39 subdivision (c) of Section 1206 of the Health and Safety Code.

1 (C) A clinic owned or operated by a public hospital or health
2 system.

3 (D) A clinic owned and operated by a hospital that maintains
4 the primary contract with a county government to fill the
5 county's role under Section 17000 of the Welfare and Institutions
6 Code.

7 (4) Satisfactory performance on ~~the California Law and Ethics~~
8 *a California law and ethics* examination and any examination
9 that may be required by the bureau.

10 (5) Proof that the applicant has not been subject to disciplinary
11 action by any state in which he or she is or has been previously
12 licensed as a registered dental hygienist or dentist. If the
13 applicant has been subject to disciplinary action, the bureau shall
14 review that action to determine if it warrants refusal to issue a
15 license to the applicant.

16 (6) Proof of graduation from a school of dental hygiene
17 accredited by the Commission on Dental Accreditation.

18 (7) Proof of satisfactory completion of the Dental Hygiene
19 National Board Examination and of a state or regional clinical
20 licensure examination.

21 (8) Proof that the applicant has not failed the examination for
22 licensure to practice dental hygiene under this chapter more than
23 once or once within five years prior to the date of his or her
24 application for a license under this section.

25 (9) Documentation of completion of a minimum of 25 units of
26 continuing education earned in the two years preceding
27 application, including completion of any continuing education
28 requirements imposed by the bureau on registered dental
29 hygienists licensed in this state at the time of application.

30 (10) Any other information as specified by the bureau to the
31 extent that it is required of applicants for licensure by
32 examination under this article.

33 ~~(e)~~

34 (b) The bureau may periodically request verification of
35 compliance with the requirements of paragraph (3) of subdivision
36 ~~(b)~~ (a), and may revoke the license upon a finding that the
37 employment requirement or any other requirement of paragraph
38 (3) *of that subdivision* has not been met.

39 ~~(d)~~

(c) The bureau shall provide in the application packet to each out-of-state dental hygienist pursuant to this section the following information:

(1) The location of dental manpower shortage areas in the state.

(2) Any not-for-profit clinics, public hospitals, and accredited dental hygiene education programs seeking to contract with licensees for dental hygiene service delivery or training purposes.

~~(e)-(1)~~

(d) The bureau shall review the impact of this section on the availability of actively practicing registered dental hygienists in California and report to the appropriate policy and fiscal committees of the Legislature by January 1, 2011. The report shall include a separate section providing data specific to registered dental hygienists who intend to fulfill the alternative clinical practice requirements of subdivision (a). The report shall include, but shall not be limited to, the following:

(1) The number of applicants from other states who have sought licensure.

(2) The number of registered dental hygienists from other states licensed pursuant to this section, the number of licenses not granted, and the reason why the license was not granted.

(3) The practice location of registered dental hygienists licensed pursuant to this section. In identifying a registered dental hygienist's location of practice, the bureau shall use medical service study areas or other appropriate geographic descriptions for regions of the state.

(4) The number of registered dental hygienists licensed pursuant to this section who establish a practice in a rural area or in an area designated as having a shortage of practicing registered dental hygienists or no registered dental hygienists or in a safety net facility identified in paragraph (3) of subdivision (a).

(5) The length of time registered dental hygienists licensed pursuant to this section practiced in the reported location.

1917.2. (a) The bureau shall license as a registered dental hygienist a third- or fourth-year dental student who is in good standing at an accredited California dental school and who satisfies the following requirements:

~~(A)~~

1 (1) Satisfactorily performs on ~~an examination required by the~~
2 ~~bureau.~~

3 ~~(B) a clinical examination and an examination in California~~
4 ~~law and ethics as prescribed by the bureau.~~

5 (2) Satisfactorily completes a national written dental hygiene
6 examination approved by the bureau.

7 ~~(2)~~

8 (b) A dental student who is granted a registered dental
9 hygienist license pursuant to this subdivision may only practice
10 in a dental practice that serves patients who are insured under
11 Denti-Cal, the Healthy Families Program, or other government
12 programs, or a dental practice that has a sliding scale fee system
13 based on income.

14 ~~(3)~~

15 (c) Upon receipt of a license to practice dentistry pursuant to
16 Section 1634, a registered dental hygienist license issued
17 pursuant to this subdivision is automatically revoked.

18 ~~(4)~~

19 (d) The dental hygienist license is granted for two years upon
20 passage of the dental hygiene examination, without the ability for
21 renewal.

22 ~~(5)~~

23 (e) Notwithstanding ~~paragraph (4)~~ *subdivision (d)*, if a dental
24 student fails to remain in good standing at an accredited
25 California dental school, or fails to graduate from the dental
26 program, a registered dental hygienist license issued pursuant to
27 ~~this subdivision~~ *section* shall be revoked. The student shall be
28 responsible for submitting appropriate verifying documentation
29 to the bureau.

30 ~~(6)~~

31 (f) The provisions of ~~paragraphs (1) and (2)~~ *this section* shall
32 be reviewed pursuant to Division 1.2 (commencing with Section
33 473). However, the review shall be limited to the fiscal feasibility
34 and impact on the bureau.

35 ~~(7)~~

36 (g) This subdivision is inoperative as of January 1, 2009.
37 ~~1917. (a) The bureau shall review the impact of Section 1916~~
38 ~~on the availability of actively practicing dental hygienists in~~
39 ~~California and report to the appropriate policy and fiscal~~
40 ~~committees of the Legislature by January 1, 2009. The report~~

1 shall include a separate section providing data specific to dental
2 hygienists who intend to fulfill the alternative clinical practice
3 requirements of subdivision (b) of Section 1916. The report shall
4 include, but not be limited to, the following:

5 (1) The number of applicants from other states who have
6 sought licensure.

7 (2) The number of dental hygienists from other states licensed
8 pursuant to Section 1916, the number of licenses not granted, and
9 the reason why the license was not granted.

10 (3) The practice location of dental hygienists licensed pursuant
11 to subdivision (b) of Section 1916.

12 (4) The number of dental hygienists licensed pursuant to
13 Section 1916 who establish a practice in a rural area or in an area
14 designated as having a shortage of practicing dental hygienists or
15 no dental hygienists or in a safety net facility identified in
16 paragraph (3) of subdivision (b) of Section 1916.

17 (5) The length of time dental hygienists licensed pursuant to
18 Section 1916 practiced in the reported location.

19 (b) In identifying a dental hygienist's location of practice, the
20 bureau shall use medical service study areas or other appropriate
21 geographic descriptions for regions of the state.

22 1918. The bureau shall license as a registered dental hygienist
23 in extended functions a person who meets all of the following
24 requirements:

25 (a) Holds a valid license issued pursuant to Section 1916
26 *current license* as a registered dental hygienist *in California*.

27 (b) Completes clinical training approved by the bureau in a
28 facility affiliated with a dental school under the direct
29 supervision of the dental school faculty.

30 (c) Performs satisfactorily on an examination required by the
31 bureau.

32 1919. The bureau shall adopt regulations necessary to define
33 the functions that may be performed by registered dental
34 hygienists in extended functions, whether the functions require
35 direct or general supervision, and the settings within which
36 registered dental hygienists in extended functions may work.

37 1920. (a) A person who holds a current and active license as
38 a registered dental hygienist in extended functions *or a registered*
39 *dental hygienist in alternative practice* on January 1, 2007, shall
40 automatically be issued a license as a registered dental hygienist,

1 unless the person holds a current and active registered dental
2 hygienist license.

3 (b) A registered dental hygienist license issued pursuant to this
4 section shall expire on the same date as the person's ~~prior~~
5 registered dental hygienist *or registered dental hygienist in*
6 *alternative practice* in extended functions license, and shall be
7 subject to the same renewal and other requirements imposed by
8 law or regulation on a license.

9 ~~1921. The bureau shall seek to obtain an injunction against~~
10 ~~any dental hygienist who provides services in alternative practice~~
11 ~~pursuant to Sections 1922 to 1931, inclusive, if the bureau has~~
12 ~~reasonable cause to believe that the services are being provided~~
13 ~~to a patient who has not received a prescription for those services~~
14 ~~from a dentist or physician and surgeon licensed to practice in~~
15 ~~this state.~~

16 1922. The bureau shall license as a registered dental hygienist
17 in alternative practice a person who demonstrates satisfactory
18 performance on an examination *in California law and ethics*
19 required by the bureau and, ~~subject to Sections 1907 and 1916,~~
20 who meets either of the following requirements:

21 (a) Holds a current California license as a *registered* dental
22 hygienist and meets the following requirements:

23 (1) Has been engaged in ~~clinical practice~~ *the practice of dental*
24 *hygiene, as defined in Section 1908*, as a dental hygienist *in any*
25 *setting, including, but not limited to, educational settings and*
26 *public health settings*, for a minimum of 2,000 hours during the
27 immediately preceding 36 months.

28 (2) Has successfully completed a bachelor's degree or its
29 equivalent from a college or institution of higher education that is
30 accredited by a national agency recognized by the Council on
31 Postsecondary Accreditation or the United States Department of
32 Education, and a minimum of 150 hours of additional
33 educational requirements, as prescribed by the bureau by
34 regulation, that are consistent with good dental and dental
35 hygiene practice, including, but not necessarily limited to, dental
36 hygiene technique and theory including gerontology and medical
37 emergencies, and business administration and practice
38 management.

39 (b) Has received a letter of acceptance into the employment
40 utilization phase of the Health Manpower Pilot Project No. 155

1 established by the Office of Statewide Health Planning and
2 Development pursuant to Article 1 (commencing with Section
3 128125) of Chapter 3 of Part 3 of Division 107 of the Health and
4 Safety Code.

5 ~~1923. (a) Subject to the provisions of Sections 1926 and~~
6 ~~1931, the bureau shall adopt regulations in accordance with~~
7 ~~Section 1906 necessary to implement Sections 1922 and 1924.~~

8 ~~(b) The Director of Consumer Affairs shall review the~~
9 ~~regulations adopted by the bureau in accordance with Section~~
10 ~~313.1.~~

11 1924. A person licensed as a registered dental hygienist who
12 has completed the prescribed classes through the Health
13 Manpower Pilot Project (HMPP) and who has established an
14 independent practice under the HMPP by June 30, 1997, shall be
15 deemed to have satisfied the licensing requirements under
16 Section 1922, and shall be authorized to continue to operate the
17 practice he or she presently operates, so long as he or she follows
18 the requirements for prescription and functions as specified in
19 Sections 1922, 1925, 1926, 1927, 1928, 1930, and 1931, and
20 subdivision (b) of Section 1929, and as long as he or she
21 continues to personally practice and operate the practice or until
22 he or she sells the practice to a licensed dentist.

23 1925. A registered dental hygienist in alternative practice
24 may practice, pursuant to Sections 1922, 1923, and 1924, as an
25 employee of a dentist or of another registered dental hygienist in
26 alternative practice, or as an independent contractor, or as a sole
27 proprietor of an alternative dental hygiene practice, or as an
28 employee of a primary care clinic or specialty clinic that is
29 licensed pursuant to Section 1204 of the Health and Safety Code
30 or as an employee of a primary care clinic exempt from licensure
31 pursuant to subdivision (c) of Section 1206 of the Health and
32 Safety Code, or as an employee of a clinic owned or operated by
33 a public hospital or health system, or as an employee of a clinic
34 owned and operated by a hospital that maintains the primary
35 contract with a county government to fill the county's role under
36 Section 17000 of the Welfare and Institutions Code.

37 1926. A registered dental hygienist in alternative practice
38 may perform the duties authorized pursuant to Sections 1922,
39 1923, and 1924 in the following settings:

40 (a) Residences of the homebound.

1 (b) Schools.

2 (c) Residential facilities and other institutions.

3 (d) Dental health professional shortage areas, as certified by
4 the Office of Statewide Health Planning and Development in
5 accordance with existing office guidelines.

6 1927. A registered dental hygienist in alternative practice
7 shall not do any of the following:

8 (a) Infer, purport, advertise, or imply that he or she is in any
9 way able to provide dental services or make any type of dental
10 health diagnosis beyond evaluating a patient's dental hygiene
11 status, providing a dental hygiene treatment plan, and providing
12 the associated dental hygiene services.

13 (b) Hire a registered dental hygienist to provide direct patient
14 services other than a registered dental hygienist in alternative
15 practice.

16 1928. A registered dental hygienist in alternative practice
17 may submit or allow to be submitted any insurance or third-party
18 claims for patient services performed as authorized pursuant to
19 this article.

20 1929. (a) A registered dental hygienist in alternative practice
21 may hire other registered dental hygienists in alternative practice
22 to assist in his or her practice.

23 (b) A registered dental hygienist in alternative practice may
24 hire and supervise dental assistants performing functions
25 specified in subdivision (b) of Section 1751.

26 1930. A registered dental hygienist in alternative practice
27 shall provide to the bureau documentation of an existing
28 relationship with at least one dentist for referral, consultation,
29 and emergency services.

30 1931. (a) A registered dental hygienist in alternative practice
31 may perform dental hygiene services for a patient who presents
32 to the registered hygienist in alternative practice a written
33 prescription for dental hygiene services issued by a dentist or
34 physician and surgeon licensed to practice in this state who has
35 performed a physical examination and a diagnosis of the patient
36 prior to the prescription being provided. The prescription shall be
37 valid for a time period based on the dentist's or physician and
38 surgeon's professional judgment, but not to exceed 15 months
39 from the date that it was issued.

(b) *The bureau shall seek to obtain an injunction against any registered dental hygienist in alternative practice who provides services pursuant to this section, if the bureau has reasonable cause to believe that the services are being provided to a patient who has not received a prescription for those services from a dentist or physician and surgeon licensed to practice in this state.*

1932. (a) The bureau may, in its sole discretion, issue a probationary license to an applicant who has satisfied all requirements for licensure as a registered dental hygienist, a registered dental hygienist in alternative practice, or a registered dental hygienist in extended functions. The bureau may require, as a term or condition of issuing the probationary license, that the applicant comply with certain additional requirements, including, but not limited to, the following:

(1) Successfully completing a professional competency examination.

(2) Submitting to a medical or psychological evaluation.

(3) Submitting to continuing medical or psychological treatment.

(4) Abstaining from the use of alcohol or drugs.

(5) Submitting to random fluid testing for alcohol or controlled substance abuse.

(6) Submitting to continuing participation in a bureau-approved rehabilitation program.

(7) Restricting the type or circumstances of practice.

(8) Submitting to continuing education and coursework.

(9) Complying with requirements regarding notifying the bureau of any change of employer or employment.

(10) Complying with probation monitoring.

(11) Complying with all laws and regulations governing the practice of dentistry.

(12) Limiting his or her practice to a supervised, structured environment in which his or her activities are supervised by a specified person.

(b) The term of a probationary license is three years. During the term of the license, ~~a registered dental hygienist, registered dental hygienist in alternative practice, or registered dental hygienist in extended functions~~ the licensee may petition the bureau for a modification of a term or condition of the license or for the issuance of a license that is not probationary.

1 (c) The proceedings under this section shall be conducted in
2 accordance with the provisions of Chapter 5 (commencing with
3 Section 11500) of Part 1 of Division 3 of Title 2 of the
4 Government Code, and the bureau shall have all the powers
5 granted in that chapter.

6 1933. A licensee shall be issued a substitute license upon
7 request and payment of the required fee. The request shall be
8 accompanied by an affidavit or declaration containing
9 satisfactory evidence of the loss or destruction of the license
10 certificate.

11 1934. A licensee who changes his or her address of record
12 shall notify the bureau within 30 days of the change. A licensee
13 who changes his or her legal name shall provide the bureau with
14 documentation of the change within 10 days.

15 1935. If not renewed, a license issued under the provisions of
16 this article, unless specifically excepted, expires at 12 midnight
17 on the last day of the month of the legal birth date of the licensee
18 during the second year of a two-year term. To renew an
19 unexpired license, the licensee shall, before the time at which the
20 license would otherwise expire, apply for renewal on a form
21 prescribed by the bureau and pay the renewal fee prescribed by
22 this article.

23 1936. Except as otherwise provided in this article, an expired
24 license may be renewed at any time within five years after its
25 expiration by filing an application for renewal on a form
26 prescribed by the bureau and payment of all accrued renewal and
27 delinquency fees. If the license is renewed after its expiration, the
28 licensee, as a condition precedent to renewal, shall also pay the
29 delinquency fee prescribed by this article. Renewal under this
30 section shall be effective on the date on which the application is
31 filed, on the date on which the renewal fee is paid, or on the date
32 on which the delinquency fee, if any, is paid, whichever last
33 occurs. If so renewed, the license shall continue in effect until the
34 expiration date provided in Section 1935 that next occurs after
35 the effective date of the renewal.

36 *1936.1. (a) If the bureau determines that the public health*
37 *and safety would be served by requiring all holders of licenses*
38 *under this article to continue their education after receiving a*
39 *license, the bureau may require, as a condition to license*
40 *renewal, that licensees submit assurances satisfactory to the*

bureau that they will, during the succeeding two-year period, inform themselves of the developments in the practice of dental hygiene occurring since the original issuance of their licenses by pursuing one or more courses of study satisfactory to the bureau, or by other means deemed equivalent by the bureau. The bureau shall adopt regulations providing for the suspension of the licenses at the end of the two-year period until compliance with the assurances provided for in this section is accomplished.

(b) The bureau may also, as a condition of license renewal, require licensees to successfully complete a portion of the required continuing education hours in specific areas adopted in regulations by the bureau. The bureau may prescribe this mandatory coursework within the general areas of patient care, health and safety, and law and ethics. The mandatory coursework prescribed by the bureau shall not exceed seven and one-half hours per renewal period. Any mandatory coursework required by the bureau shall be credited toward the continuing education requirements established by the bureau pursuant to subdivision (a).

(c) The providers of courses referred to in this section shall be approved by the bureau.

1937. A suspended license is subject to expiration and shall be renewed as provided in this article. The renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

1938. A revoked license is subject to expiration as provided in this article. A revoked license may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated and the delinquency fee, if any, accrued at the time of its revocation.

1939. A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued. The holder of the license may apply for and obtain a new license upon meeting all of the requirements of a new applicant prescribed in this article.

1 1940. (a) A licensee who desires an inactive license shall
2 submit an application to the bureau on a form provided by the
3 bureau.

4 (b) In order to restore an inactive license to active status, the
5 licensee shall submit an application to the bureau on a form
6 provided by the bureau, accompanied by evidence that the
7 licensee has completed the required number of hours of approved
8 continuing education in compliance with this article within the
9 last two years preceding the date of the application.

10 (c) The holder of an inactive license shall continue to pay to
11 the bureau the required biennial renewal fee.

12 (d) Within 30 days of receiving a request either to restore an
13 inactive license or to inactivate a license, the bureau shall inform
14 the applicant in writing whether the application is complete and
15 accepted for filing or is deficient and, if so, the specific
16 information required to complete the application.

17 1941. It is the intent of the bureau to grant and to renew
18 approval of only those educational programs for a registered
19 dental hygienist, a registered dental hygienist in alternative
20 practice, and a registered dental hygienist in extended functions
21 that continuously maintain a high quality standard of instruction.

22 ~~1942. (a) An educational program for registered dental~~
23 ~~hygienists that commences operation on or after January 1, 2007,~~
24 ~~shall apply to the bureau for approval.~~

25 ~~(b) The bureau may approve, provisionally approve, or deny~~
26 ~~approval of an application made pursuant to subdivision (a). In~~
27 ~~taking this action, the bureau may, in lieu of conducting its own~~
28 ~~investigation, accept the findings of any commission or~~
29 ~~accreditation agency that is approved by the bureau and adopt~~
30 ~~those findings as its own.~~

31 1943. (a) The bureau may deny an application to take an
32 examination for licensure as a registered dental hygienist, a
33 registered dental hygienist in alternative practice, or a registered
34 dental hygienist in extended functions at any time prior to
35 licensure.

36 ~~(b) The bureau may deny an application for licensure as a~~
37 ~~registered dental hygienist, registered dental hygienist in~~
38 ~~alternative practice, or registered dental hygienist in extended~~
39 ~~functions for any of the following reasons:~~

1 (1) The applicant committed an act that is a ground for license
2 suspension or revocation under this code or that is a ground for
3 the denial of licensure under Section 480.

4 (2) The applicant committed or aided and abetted the
5 commission of any act for which a license is required under this
6 chapter.

7 (3) Another state or territory suspended or revoked the license
8 that it had issued to the applicant on a ground that constitutes a
9 basis in this state for the suspension or revocation of licensure
10 under this chapter.

11 ~~(4) The applicant failed to meet any requirement under Section~~
12 ~~1916, 1918, 1922, or 1924.~~

13 ~~(e)~~

14 (b) The proceedings under this section shall be conducted in
15 accordance with Chapter 5 (commencing with Section 11500) of
16 Part 1 of Division 3 of Title 2 of the Government Code, and the
17 bureau shall have all of the powers granted therein.

18 1944. (a) The bureau shall establish by resolution the amount
19 of the fees that relate to the licensing of a registered dental
20 hygienist, a registered dental hygienist in alternative practice, and
21 a registered dental hygienist in extended functions. The fees are
22 subject to the following limitations:

23 (1) The application fee for an original license shall not exceed
24 twenty dollars (\$20).

25 (2) The fee for examination for licensure as a registered dental
26 hygienist shall not exceed two hundred twenty dollars (\$220).

27 (3) For third- and fourth-year dental students, the fee for
28 examination for licensure as a registered dental hygienist shall
29 not exceed the actual cost of the examination.

30 (4) The fee for examination for licensure as a registered dental
31 hygienist in extended functions shall not exceed two hundred
32 fifty dollars (\$250).

33 (5) The fee for examination for licensure as a registered dental
34 hygienist in alternative practice shall not exceed the actual cost
35 of administering the examination.

36 (6) The biennial renewal fee shall not exceed eighty dollars
37 (\$80).

38 (7) The delinquency fee shall not exceed twenty-five dollars
39 (\$25) or one-half of the renewal fee, whichever is greater. Any
40 delinquent license may be restored only upon payment of all fees,

1 including the delinquency fee, and compliance with all other
2 applicable requirements of this article.

3 (8) The fee for issuance of a duplicate license to replace one
4 that is lost or destroyed, or in the event of a name change, shall
5 not exceed twenty-five dollars (\$25) or one-half of the renewal
6 fee, whichever is greater.

7 (9) The fee for each curriculum review and site evaluation for
8 educational programs for dental hygienists that are not accredited
9 by a bureau-approved agency, the Council for Private
10 Postsecondary and Vocational Education, or the Chancellor's
11 office of the California Community Colleges shall not exceed
12 one thousand four hundred dollars (\$1,400).

13 (10) The fee for each review of ~~radiation safety courses or~~
14 ~~specialty registration courses~~ *courses required for licensure* that
15 are not accredited by a bureau-approved agency, the Council for
16 Private Postsecondary and Vocational Education, or the
17 Chancellor's office of the California Community Colleges shall
18 not exceed three hundred dollars (\$300).

19 (11) The fee for a provider of continuing education shall not
20 exceed five hundred dollars (\$500) per year.

21 (12) The amount of fees payable in connection with permits
22 issued under Section 1962 is as follows:

23 (A) The initial permit fee is an amount equal to the renewal
24 fee for the applicant's license to practice dental hygiene in effect
25 on the last regular renewal date before the date on which the
26 permit is issued.

27 (B) If the permit will expire less than one year after its
28 issuance, then the initial permit fee is an amount equal to 50
29 percent of the renewal fee in effect on the last regular renewal
30 date before the date on which the permit is issued.

31 (b) The renewal and delinquency fees shall be fixed by the
32 bureau at not more than the current amount of the renewal fee for
33 a license to practice under this chapter nor less than five dollars
34 (\$5).

35 (c) Fees fixed by the bureau pursuant to this section shall not
36 be subject to the approval of the Office of Administrative Law.

37 (d) Fees collected pursuant to this section shall be collected by
38 the bureau and deposited into the State Dental Hygiene Fund,
39 which is hereby created. All money in this fund is continuously

1 appropriated to the bureau to implement the provisions of this
2 article.

3 (e) No fees or charges other than those listed in this section
4 shall be levied by the bureau in connection with the licensure of
5 registered dental hygienists, registered dental hygienists in
6 alternative practice, or registered dental hygienists in extended
7 functions.

8 1945. On January 1, 2007, a percentage of the funds in the
9 State Dental Auxiliary Fund shall be transferred to the State
10 Dental Hygiene Fund based on the number of registered dental
11 hygienists, registered dental hygienists in alternative practice,
12 and registered dental hygienists in extended practice licensed on
13 January 1, 2007, compared to all dental auxiliaries licensed by
14 the Committee on Dental Auxiliaries on January 1, 2007.

15 ~~1946. The proceedings to deny, suspend, or revoke a license~~
16 ~~under this article shall be conducted in accordance with the~~
17 ~~provisions of Chapter 5 (commencing with Section 11500) of~~
18 ~~Part 1 of Division 3 of Title 2 of the Government Code.~~

19 1947. A license issued under this article and a license issued
20 under this chapter to a registered dental hygienist, to a registered
21 dental hygienist in alternative practice, or to a registered dental
22 hygienist in extended functions may be revoked or suspended by
23 the bureau for any reason specified in this chapter for the
24 suspension or revocation of a license to practice dental hygiene.

25 ~~1948. (a) If the bureau determines that the public health and~~
26 ~~safety would be served by requiring all holders of licenses under~~
27 ~~this article to continue their education after receiving a license,~~
28 ~~the bureau may require, as a condition to license renewal, that~~
29 ~~licensees submit assurances satisfactory to the bureau that they~~
30 ~~will, during the succeeding two-year period, inform themselves~~
31 ~~of the developments in the practice of dental hygiene occurring~~
32 ~~since the original issuance of their licenses by pursuing one or~~
33 ~~more courses of study satisfactory to the bureau, or by other~~
34 ~~means deemed equivalent by the bureau. The bureau shall adopt~~
35 ~~regulations providing for the suspension of the licenses at the end~~
36 ~~of the two-year period until compliance with the assurances~~
37 ~~provided for in this section is accomplished.~~

38 ~~(b) The bureau may also, as a condition of license renewal,~~
39 ~~require licentiates to successfully complete a portion of the~~
40 ~~required continuing education hours in specific areas adopted in~~

~~regulations by the board. The bureau may prescribe this mandatory coursework within the general areas of patient care, health and safety, and law and ethics. The mandatory coursework prescribed by the bureau shall not exceed seven and one-half hours per renewal period. Any mandatory coursework required by the bureau shall be credited toward the continuing education requirements established by the bureau pursuant to subdivision (a).~~

1949. A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the bureau for unprofessional conduct, incompetence, gross negligence, repeated acts of negligence in his or her profession, receiving a license by mistake, or for any other cause applicable to the licensee provided in this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

1950. (a) A licensee may have his or her license revoked or suspended, or may be reprimanded or placed on probation by the bureau, for conviction of a crime substantially related to the licensee's qualifications, functions, or duties. The record of conviction or a copy certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of conviction.

(b) The bureau shall undertake proceedings under this section upon the receipt of a certified copy of the record of conviction. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any misdemeanor substantially related to the licensee's qualifications, functions, or duties is deemed to be a conviction within the meaning of this section.

(c) The bureau may order a license suspended or revoked, or may decline to issue a license when any of the following occur:

- (1) The time for appeal has elapsed.
- (2) The judgment of conviction has been affirmed on appeal.
- (3) An order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under any provision of the Penal Code, including, but not limited to, Section 1203.4 of the Penal Code, allowing a person to withdraw

1 his or her plea of guilty and to enter a plea of not guilty, or
2 setting aside the verdict of guilty, or dismissing the accusation,
3 information or indictment.

4 1951. The bureau may discipline a licensee by placing him or
5 her on probation under various terms and conditions that may
6 include, but are not limited to, the following:

7 (a) Requiring the licensee to obtain additional training or pass
8 an examination upon completion of training, or both. The
9 examination may be written or oral examinations, or both, and
10 may be a practical or clinical examination, or both, at the option
11 of the bureau.

12 (b) Requiring the licensee to submit to a complete diagnostic
13 examination by one or more physicians appointed by the bureau,
14 if warranted by the physical or mental condition of the licensee.
15 If the bureau requires the licensee to submit to an examination,
16 the bureau shall receive and consider any other report of a
17 complete diagnostic examination given by one or more
18 physicians of the licensee's choice.

19 (c) Restricting or limiting the extent, scope, or type of practice
20 of the licensee.

21 (d) Requiring restitution of fees to the licensee's patients or
22 payers of services unless restitution has already been made.

23 (e) Providing the option of alternative community service in
24 lieu of all or part of a period of suspension in cases other than
25 violations relating to quality of care.

26 1952. It is unprofessional conduct for a person licensed under
27 this article to do any of the following:

28 (a) Obtain or possess in violation of law, or except as directed
29 by a licensed physician and surgeon, dentist, or podiatrist,
30 administer to himself or herself, a controlled substance, as
31 defined in Division 10 (commencing with Section 11000) of the
32 Health and Safety Code, or any dangerous drug as defined in
33 Article 8 (commencing with Section 4211) of Chapter 9.

34 (b) Use a controlled substance, as defined in Division 10
35 (commencing with Section 11000) of the Health and Safety
36 Code, or a dangerous drug as defined in Article 8 (commencing
37 with Section 4211) of Chapter 9, or alcoholic beverages or other
38 intoxicating substances, to an extent or in a manner dangerous or
39 injurious to himself or herself, to any person, or the public to the

1 extent that the use impairs the licensee's ability to conduct with
2 safety to the public the practice authorized by his or her license.

3 (c) The conviction of a charge of violating any federal statute
4 or rules, or any statute or rule of this state, regulating controlled
5 substances, as defined in Division 10 (commencing with Section
6 11000) of the Health and Safety Code, or any dangerous drug, as
7 defined in Article 8 (commencing with Section 4211) of Chapter
8 9, or the conviction of more than one misdemeanor, or any
9 felony, involving the use or consumption of alcohol or drugs, if
10 the conviction is substantially related to the practice authorized
11 by his or her license. The record of conviction or a copy certified
12 by the clerk of the court or by the judge in whose court the
13 conviction is had, shall be conclusive evidence of a violation of
14 this section. A plea or verdict of guilty or a conviction following
15 a plea of nolo contendere is deemed to be a conviction within the
16 meaning of this section; the bureau may order the license
17 suspended or revoked, or may decline to issue a license, when the
18 time for appeal has elapsed or the judgment of conviction has
19 been affirmed on appeal, or when an order granting probation is
20 made suspending imposition of sentence, irrespective of a
21 subsequent order under any provision of the Penal Code,
22 including, but not limited to, Section 1203.4 of the Penal Code,
23 allowing a person to withdraw his or her plea of guilty and to
24 enter a plea of not guilty, or setting aside the verdict of guilty, or
25 dismissing the accusation, information or indictment.

26 1953. (a) A registered dental hygienist, registered dental
27 hygienist in alternative practice, or registered dental hygienist in
28 extended functions who performs a service on a patient in a
29 dental office shall identify himself or herself in the patient record
30 by signing his or her name or identification number and initials
31 next to the service performed, and shall date those treatment
32 entries in the record.

33 (b) A repeated violation of this section constitutes
34 unprofessional conduct.

35 1954. (a) It is unprofessional conduct for a person licensed
36 under this article to perform, or hold himself or herself out as
37 able to perform, professional services beyond the scope of his or
38 her license and field of competence, as established by his or her
39 education, experience, and training. This includes, but is not
40 limited to, using an instrument or device in a manner that is not

1 in accordance with the customary standards and practices of the
2 dental hygiene profession.

3 (b) This section shall not apply to research conducted by
4 accredited dental schools or dental hygiene schools, or to
5 research conducted pursuant to an investigational device
6 exemption issued by the United States Food and Drug
7 Administration.

8 1955. (a) (1) A licensee who fails or refuses to comply with
9 a request for a patient's dental hygiene records that is
10 accompanied by that patient's written authorization for release of
11 the records to the bureau, within 15 days of receiving the request
12 and authorization, shall pay to the bureau a civil penalty of two
13 hundred fifty dollars (\$250) per day for each day that the
14 documents have not been produced after the 15th day, up to a
15 maximum of five thousand dollars (\$5,000) unless the licensee is
16 unable to provide the documents within this time period for good
17 cause.

18 (2) A health care facility shall comply with a request for the
19 dental hygiene records of a patient that is accompanied by that
20 patient's written authorization for release of records to the bureau
21 together with a notice citing this section and describing the
22 penalties for failure to comply with this section. Failure to
23 provide the authorizing patient's dental hygiene records to the
24 board within 30 days of receiving this request, authorization, and
25 notice shall subject the health care facility to a civil penalty,
26 payable to the bureau, of up to two hundred fifty dollars (\$250)
27 per day for each day that the documents have not been produced
28 after the 30th day, up to a maximum of five thousand dollars
29 (\$5,000), unless the health care facility is unable to provide the
30 documents within this time period for good cause. This
31 paragraph shall not require health care facilities to assist the
32 bureau in obtaining the patient's authorization. The bureau shall
33 pay the reasonable cost of copying the dental hygiene records.

34 (b) (1) A licensee who fails or refuses to comply with a court
35 order issued in the enforcement of a subpoena mandating the
36 release of records to the bureau shall pay to the bureau a civil
37 penalty of one thousand dollars (\$1,000) per day for each day
38 that the documents have not been produced after the date by
39 which the court order requires the documents to be produced,
40 unless it is determined that the order is unlawful or invalid. Any

1 statute of limitations applicable to the filing of an accusation by
2 the bureau shall be tolled during the period the licensee is out of
3 compliance with the court order and during any related appeals.

4 (2) A licensee who fails or refuses to comply with a court
5 order issued in the enforcement of a subpoena mandating the
6 release of records to the bureau is guilty of a misdemeanor
7 punishable by a fine payable to the bureau not to exceed five
8 thousand dollars (\$5,000). The fine shall be added to the
9 licensee's renewal fee if it is not paid by the next succeeding
10 renewal date. Any statute of limitations applicable to the filing of
11 an accusation by the bureau shall be tolled during the period the
12 licensee is out of compliance with the court order and during any
13 related appeals.

14 (3) A health care facility that fails or refuses to comply with a
15 court order issued in the enforcement of a subpoena mandating
16 the release of patient records to the bureau, that is accompanied
17 by a notice citing this section and describing the penalties for
18 failure to comply with this section, shall pay to the bureau a civil
19 penalty of up to one thousand dollars (\$1,000) per day for each
20 day that the documents have not been produced, up to ten
21 thousand dollars (\$10,000), after the date by which the court
22 order requires the documents to be produced, unless it is
23 determined that the order is unlawful or invalid. Any statute of
24 limitations applicable to the filing of an accusation by the bureau
25 against a licensee shall be tolled during the period the health care
26 facility is out of compliance with the court order and during any
27 related appeals.

28 (4) A health care facility that fails or refuses to comply with a
29 court order, issued in the enforcement of a subpoena, mandating
30 the release of records to the bureau is guilty of a misdemeanor
31 punishable by a fine payable to the bureau not to exceed five
32 thousand dollars (\$5,000). Any statute of limitations applicable
33 to the filing of an accusation by the bureau against a licensee
34 shall be tolled during the period the health care facility is out of
35 compliance with the court order and during any related appeals.

36 (c) Multiple acts by a licensee in violation of subdivision (b)
37 shall be punishable by a fine not to exceed five thousand dollars
38 (\$5,000) or by imprisonment in a county jail not exceeding six
39 months, or by both that fine and imprisonment. Multiple acts by
40 a health care facility in violation of subdivision (b) shall be

1 punishable by a fine not to exceed five thousand dollars (\$5,000)
2 and shall be reported to the State Department of Health Services
3 and shall be considered as grounds for disciplinary action with
4 respect to licensure, including suspension or revocation of the
5 license or certificate.

6 (d) A failure or refusal to comply with a court order issued in
7 the enforcement of a subpoena mandating the release of records
8 to the bureau constitutes unprofessional conduct and is grounds
9 for suspension or revocation of his or her license.

10 (e) Imposition of the civil penalties authorized by this section
11 shall be in accordance with the Administrative Procedure Act
12 (Chapter 5 (commencing with Section 11500) of Division 3 of
13 Title 2 of the Government Code).

14 (f) For the purposes of this section, a “health care facility”
15 means a clinic or health care facility licensed or exempt from
16 licensure pursuant to Division 2 (commencing with Section
17 1200) of the Health and Safety Code.

18 1956. It is unprofessional conduct for a person licensed under
19 this article to require, either directly or through an office policy,
20 or knowingly permit the delivery of dental hygiene care that
21 discourages necessary treatment, or permits clearly excessive,
22 incompetent, unnecessary, or grossly negligent treatment, or
23 repeated negligent acts, as determined by the standard of practice
24 in the community.

25 1957. (a) A person whose license has been revoked or
26 suspended, who has been placed on probation, or whose license
27 was surrendered pursuant to a stipulated settlement as a condition
28 to avoid a disciplinary administrative hearing, may petition the
29 bureau for reinstatement or modification of penalty, including
30 modification or termination of probation, after a period of not
31 less than the following minimum periods have elapsed from the
32 effective date of the decision ordering disciplinary action:

33 (1) At least three years for reinstatement of a license revoked
34 for unprofessional conduct or surrendered pursuant to a
35 stipulated settlement as a condition to avoid an administrative
36 disciplinary hearing.

37 (2) At least two years for early termination, or modification of
38 a condition, of a probation of three years or more.

39 (3) At least one year for modification of a condition, or
40 reinstatement of a license revoked for mental or physical illness,

1 or termination, or modification of a condition, of a probation of
2 less than three years.

3 (b) The petition shall state any fact required by the bureau.

4 (c) The petition may be heard by the bureau, or the bureau
5 may assign the petition to an administrative law judge designated
6 in Section 11371 of the Government Code.

7 (d) In considering reinstatement or modification or penalty,
8 the bureau or the administrative law judge hearing the petition
9 may consider the following:

10 (1) All activities of the petitioner since the disciplinary action
11 was taken.

12 (2) The offense for which the petitioner was disciplined.

13 (3) The petitioner's activities during the time the license,
14 certificate, or permit was in good standing.

15 (4) The petitioner's rehabilitative efforts, general reputation
16 for truth, and professional ability.

17 (e) The hearing may be continued from time to time as the
18 bureau or the administrative law judge as designated in Section
19 11371 of the Government Code finds necessary.

20 (f) The bureau or the administrative law judge may impose
21 necessary terms and conditions on the licentiate in reinstating a
22 license, certificate, or permit or modifying a penalty.

23 (g) A petition shall not be considered while the petitioner is
24 under sentence for any criminal offense, including any period
25 during which the petitioner is on court-imposed probation or
26 parole.

27 (h) A petition shall not be considered while there is an
28 accusation or petition to revoke probation pending against the
29 person.

30 (i) The bureau may deny without a hearing or argument any
31 petition filed pursuant to this section within a period of two years
32 from the effective date of the prior decision following a hearing
33 under this section. Nothing in this section shall be deemed to
34 alter Sections 822 and 823.

35 1958. A person, company, or association is guilty of a
36 misdemeanor, and upon conviction, shall be punished by
37 imprisonment in a county jail not less than 10 days nor more than
38 one year, or by a fine of not less than one hundred dollars
39 (\$100) nor more than one thousand five hundred dollars

1 (\$1,500), or by both fine and imprisonment, who does any of the
2 following:

3 (a) Assumes the title of “registered dental hygienist,”
4 “registered dental hygienist in alternative practice” or “registered
5 dental hygienist in extended functions” or appends the letters
6 “R.D.H.,” “R.D.H.A.P.” or “R.D.H.E.F.” to his or her name
7 without having had the right to assume the title conferred upon
8 him or her through licensure.

9 (b) Assumes any title, or appends any letters to his or her
10 name, with the intent to represent falsely that he or she has
11 received a dental hygiene degree or a license under this article.

12 (c) Engages in the practice of dental hygiene without causing
13 to be displayed in a conspicuous place in his or her office his or
14 her license under this article to practice dental hygiene.

15 (d) Within 10 days after demand is made by the executive
16 officer of the bureau, fails to furnish to the bureau the name and
17 address of all persons practicing or assisting in the practice of
18 dental hygiene in the office of the person, company, or
19 association, at any time within 60 days prior to the demand,
20 together with a sworn statement showing under and by what
21 license or authority this person, company, or association and any
22 employees are or have been practicing or assisting in the practice
23 of dental hygiene. This sworn statement shall not be used in any
24 prosecution under this section.

25 (e) Is under the influence of alcohol or a controlled substance
26 while engaged in the practice of dental hygiene in actual
27 attendance on patients to an extent that impairs his or her ability
28 to conduct the practice of dental hygiene with safety to patients
29 and the public.

30 1959. A person who holds a valid, unrevoked, and
31 unsuspended certificate as a registered dental hygienist,
32 registered dental hygienist in alternative practice, or registered
33 dental hygienist in extended functions under this article may
34 append the letters “R.D.H.,” “R.D.H.A.P.,” or “R.D.H.E.F.” to
35 his or her name.

36 1960. For the first offense, a person is guilty of a
37 misdemeanor and shall be punishable by a fine of not less than
38 two hundred dollars (\$200) or more than three thousand dollars
39 (\$3,000), or by imprisonment in a county jail for not to exceed
40 six months, or both, and for the second or a subsequent offense is

1 guilty of a felony and upon conviction thereof shall be punished
2 by a fine of not less than two thousand dollars (\$2,000) nor more
3 than six thousand dollars (\$6,000), or by imprisonment in the
4 state prison, or by both that fine and imprisonment, who does any
5 of the following:

6 (a) Sells or barter or offers to sell or barter a dental hygiene
7 degree or transcript or a license issued under, or purporting to be
8 issued under, laws regulating licensure of dental hygienists.

9 (b) Purchases or procures by barter a diploma, license, or
10 transcript with intent that it shall be used in evidence of the
11 holder's qualification to practice dental hygiene, or in fraud of
12 the laws regulating the practice of dental hygiene.

13 (c) With fraudulent intent, makes, attempts to make,
14 counterfeits, or materially alters a diploma, certificate, or
15 transcript.

16 (d) Uses, or attempts or causes to be used, any diploma,
17 certificate, or transcript that has been purchased, fraudulently
18 issued, counterfeited, or materially altered or in order to procure
19 licensure as a registered dental hygienist, registered dental
20 hygienist in alternative practice, or registered dental hygienist in
21 extended functions.

22 (e) In an affidavit required of an applicant for an examination
23 or license under this article, willfully makes a false statement in a
24 material regard.

25 (f) Practices dental hygiene or offers to practice dental
26 hygiene, as defined in this article, either without a license, or
27 when his or her license has been revoked or suspended.

28 (g) Under any false, assumed or fictitious name, either as an
29 individual, firm, corporation or otherwise, or any name other
30 than the name under which he or she is licensed, practices,
31 advertises, or in any other manner indicates that he or she
32 practices or will practice dental hygiene, except a name specified
33 in a valid permit issued pursuant to Section 1962.

34 1961. A person who willfully, under circumstances that cause
35 risk of bodily harm, serious physical or mental illness, or death,
36 practices, attempts to practice, advertises, or holds himself or
37 herself out as practicing dental hygiene without having at the
38 time of so doing a valid, unrevoked, and unsuspended license as
39 provided in this chapter, is guilty of a crime, punishable by
40 imprisonment in a county jail for up to one year. The remedy

1 provided in this section shall not preclude any other remedy
2 provided by law.

3 1962. (a) An association, partnership, corporation, or group
4 of three or more registered dental hygienists, registered dental
5 hygienists in alternative practice, or registered dental hygienists
6 in extended functions engaging in practice under a name that
7 would otherwise be in violation of Section 1960, may practice
8 under that name if the association, partnership, corporation, or
9 group holds an unexpired, unsuspended, and unrevoked permit
10 issued by the bureau under this section.

11 (b) An individual registered dental hygienist, registered dental
12 hygienist in alternative practice, or registered dental hygienist in
13 extended functions, or a pair of registered dental hygienists,
14 registered dental hygienists in alternative practice, or registered
15 dental hygienists in extended functions who practice dental
16 hygiene under a name that would otherwise violate Section 1960
17 may practice under that name if the licensees hold a valid permit
18 issued by the bureau under this section. The bureau shall issue a
19 written permit authorizing the holder to use a name specified in
20 the permit in connection with the holder's practice if the bureau
21 finds all of the following:

22 (1) The applicant or applicants are duly licensed registered
23 dental hygienists, registered dental hygienists in alternative
24 practice, or registered dental hygienists in extended functions.

25 (2) The place where the applicant or applicants practice is
26 owned or leased by the applicant or applicants, and the practice
27 conducted at the place is wholly owned and entirely controlled
28 by the applicant or applicants.

29 (3) The name under which the applicant or applicants propose
30 to operate contains at least one of the following designations:
31 "dental hygiene group," "dental hygiene practice," or "dental
32 hygiene office," contains the family name of one or more of the
33 past, present, or prospective associates, partners, shareholders, or
34 members of the group, and is in conformity with Section 651 and
35 not in violation of subdivisions (i) and (l) of Section 1680.

36 (4) All licensed persons practicing at the location designated
37 in the application hold valid licenses and no charges of
38 unprofessional conduct are pending against any person practicing
39 at that location.

1 (c) A permit issued under this section shall expire and become
2 invalid unless renewed in the manner provided for in this article
3 for the renewal of certificates issued under this article.

4 (d) A permit issued under this section may be revoked or
5 suspended if the bureau finds that any requirement for original
6 issuance of a permit is no longer being fulfilled by the
7 permitholder. Proceedings for revocation or suspension shall be
8 governed by the Administrative Procedure Act.

9 (e) If charges of unprofessional conduct are filed against the
10 holder of a permit issued under this section, or a member of an
11 association, partnership, group, or corporation to whom a permit
12 has been issued under this section, proceedings shall not be
13 commenced for revocation or suspension of the permit until a
14 final determination of the charges of unprofessional conduct,
15 unless the charges have resulted in revocation or suspension of a
16 license.

17 1963. The bureau may prefer a complaint for violation of any
18 part of this article before any court of competent jurisdiction and
19 may, by its officers, counsel and agents, assist in presenting the
20 law or facts at the trial. The district attorney of each county in
21 this state shall prosecute all violations of this article in their
22 respective counties in which the violations occur.

23 1964. In addition to the other proceedings provided for in this
24 article, on application of the bureau, the superior court of any
25 county shall issue an injunction to restrain an unlicensed person
26 from conducting the practice of dental hygiene, as defined in this
27 article.

28 1965. If a person has engaged in or is about to engage in an
29 act that constitutes an offense against this chapter, the superior
30 court of any county, on application of 10 or more persons
31 holding licenses to practice dental hygiene issued under this
32 article, may issue an injunction or other appropriate order
33 restraining that conduct. Proceedings under this section shall be
34 governed by Chapter 3 (commencing with Section 525) of Title 7
35 of Part 2 of the Code of Civil Procedure.

36 ~~1966. (a) An applicant for licensure under this article shall~~
37 ~~furnish fingerprint cards for submission to state and federal~~
38 ~~criminal justice agencies, including, but not limited to, the~~
39 ~~Federal Bureau of Investigation, in order to establish the identity~~
40 ~~of the applicant and in order to determine whether the applicant~~

1 has a record of any criminal convictions in this state or in any
2 other jurisdiction, including foreign countries.

3 ~~(b) The information obtained as a result of the fingerprinting~~
4 ~~shall be used in accordance with Section 11105 of the Penal~~
5 ~~Code, and to determine whether the applicant is subject to denial~~
6 ~~of licensure pursuant to Division 1.5 (commencing with Section~~
7 ~~475), or Section 1628.5.~~

8 ~~1967. The bureau shall adopt regulations to implement the~~
9 ~~requirements of this article on matters including, but not limited~~
10 ~~to, the following:~~

11 ~~(a) Educational standards, admissions criteria, and curriculum.~~

12 ~~(b) Application and examination requirements.~~

13 ~~(c) Continuing education requirements and certification of~~
14 ~~continuing education providers.~~

15 ~~1968. All moneys collected pursuant to this article shall be~~
16 ~~deposited in the State Dental Hygiene Fund, unless otherwise~~
17 ~~specified.~~

18 *1966. (a) It is the intent of the Legislature that the bureau*
19 *seek ways and means to identify and rehabilitate licensees whose*
20 *competency may be impaired due to abuse of dangerous drugs or*
21 *alcohol, so that licensees so afflicted may be treated and*
22 *returned to the practice of dental hygiene in a manner that will*
23 *not endanger the public health and safety. It is also the intent of*
24 *the Legislature that the bureau establish a diversion program as*
25 *a voluntary alternative approach to traditional disciplinary*
26 *actions.*

27 *(b) One or more diversion evaluation committees shall be*
28 *established by the bureau. The bureau shall establish criteria for*
29 *the selection of each committee. Each member of a diversion*
30 *evaluation committee shall receive per diem and expenses as*
31 *provided in Section 103.*

32 *1966.1. (a) The bureau shall establish criteria for the*
33 *acceptance, denial, or termination of licensees in a diversion*
34 *program. Unless ordered by the bureau as a condition of a*
35 *licensee's disciplinary probation, only those licensees who have*
36 *voluntarily requested diversion treatment and supervision by a*
37 *diversion evaluation committee shall participate in a diversion*
38 *program.*

1 ***(b) A licensee who is not the subject of a current investigation***
2 ***may self-refer to the diversion program on a confidential basis,***
3 ***except as provided in subdivision (f).***

4 ***(c) A licensee under current investigation by the bureau may***
5 ***also request entry into a diversion program by contacting the***
6 ***bureau. The bureau may refer the licensee requesting***
7 ***participation in the program to a diversion evaluation committee***
8 ***for evaluation of eligibility. Prior to authorizing a licensee to***
9 ***enter into the diversion program, the bureau may require the***
10 ***licensee, while under current investigation for any violations of***
11 ***this article or other violations, to execute a statement of***
12 ***understanding that states that the licensee understands that his***
13 ***or her violations of this article or other statutes, that would***
14 ***otherwise be the basis for discipline, may still be investigated***
15 ***and the subject of disciplinary action.***

16 ***(d) If the reasons for a current investigation of a licensee are***
17 ***based primarily on the self-administration of any controlled***
18 ***substance or dangerous drugs or alcohol under Section 1681, or***
19 ***the illegal possession, prescription, or nonviolent procurement of***
20 ***any controlled substance or dangerous drugs for***
21 ***self-administration that does not involve actual, direct harm to***
22 ***the public, the bureau shall close the investigation without***
23 ***further action if the licensee is accepted into the bureau's***
24 ***diversion program and successfully completes the requirements***
25 ***of the program. If the licensee withdraws or is terminated from***
26 ***the program by a diversion evaluation committee, the***
27 ***investigation shall be reopened and disciplinary action imposed,***
28 ***if warranted, as determined by the bureau.***

29 ***(e) Neither acceptance nor participation in the diversion***
30 ***program shall preclude the bureau from investigating or***
31 ***continuing to investigate, or taking disciplinary action or***
32 ***continuing to take disciplinary action against, any licensee for***
33 ***any unprofessional conduct committed before, during, or after***
34 ***participation in the diversion program.***

35 ***(f) All licensees shall sign an agreement of understanding that***
36 ***the withdrawal or termination from the diversion program at a***
37 ***time when a diversion evaluation committee determines the***
38 ***licensee presents a threat to the public's health and safety shall***
39 ***result in the utilization by the bureau of diversion treatment***
40 ***records in disciplinary or criminal proceedings.***

(g) Any licensee terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the bureau for acts committed before, during, and after participation in the diversion program. A licensee who has been under investigation by the bureau and has been terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the bureau.

1966.2. Each diversion evaluation committee shall have the following duties and responsibilities:

(a) To evaluate those licensees who request to participate in the diversion program according to the guidelines prescribed by the bureau and to consider the recommendations of any licensees designated by the bureau to serve as consultants on the admission of the licensee to the diversion program.

(b) To review and designate those treatment facilities to which licensees in a diversion program may be referred.

(c) To receive and review information concerning a licensee participating in the program.

(d) To consider in the case of each licensee participating in a program whether he or she may safely continue or resume the practice of dental hygiene.

(e) To perform other related duties as the bureau may by regulation require.

1966.3. Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, a diversion evaluation committee may convene in closed session to consider reports pertaining to any licensee requesting or participating in a diversion program. A committee shall only convene in closed session to the extent that it is necessary to protect the privacy of a licensee.

1966.4. Each licensee who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a diversion evaluation committee and to bear all costs related to the program, unless the cost is waived by the bureau. Any failure to comply with the provisions of a treatment program may result in termination of the licensee's participation in a program.

1 1966.5. (a) After a diversion evaluation committee, in its
2 discretion, has determined that a licensee has been rehabilitated
3 and the diversion program is completed, the diversion evaluation
4 committee shall purge and destroy all records pertaining to the
5 licensee's participation in the diversion program.

6 (b) Except as authorized by subdivision (f) of Section 1966.1,
7 all bureau and diversion evaluation committee records and
8 records of proceedings pertaining to the treatment of a licensee
9 in a program shall be kept confidential and are not subject to
10 discovery or subpoena.

11 1966.6. The bureau shall provide for the representation of
12 any person making reports to a diversion evaluation committee
13 or the bureau under this article in any action for defamation for
14 reports or information given to the diversion evaluation
15 committee or the bureau regarding a licensee's participation in
16 the diversion program.

17 SEC. 29. Section 4999.2 of the Business and Professions
18 Code is amended to read:

19 4999.2. (a) In order to obtain and maintain a registration,
20 in-state or out-of-state telephone medical advice services shall
21 comply with the requirements established by the department.
22 Those requirements shall include, but shall not be limited to, all
23 of the following:

24 (1) (A) Ensuring that all staff who provide medical advice
25 services are appropriately licensed, certified, or registered as a
26 physician and surgeon pursuant to Chapter 5 (commencing with
27 Section 2000) or the Osteopathic Initiative Act, as a dentist or
28 dental hygienist pursuant to Chapter 4 (commencing with Section
29 1600), as a psychologist pursuant to Chapter 6.6 (commencing
30 with Section 2900), as a marriage and family therapist pursuant
31 to Chapter 13 (commencing with Section 4980), as a licensed
32 clinical social worker pursuant to Chapter 14 (commencing with
33 Section 4990), as an optometrist pursuant to Chapter 7
34 (commencing with Section 3000), or as a chiropractor pursuant
35 to the Chiropractic Initiative Act, and operating consistent with
36 the laws governing their respective scopes of practice in the state
37 within which they provide telephone medical advice services,
38 except as provided in paragraph (2).

39 (B) Ensuring that all staff who provide telephone medical
40 advice services from an out-of-state location are health care

1 professionals, as identified in subparagraph (A), who are
2 licensed, registered, or certified in the state within which they are
3 providing the telephone medical advice services and are
4 operating consistent with the laws governing their respective
5 scopes of practice.

6 (2) Ensuring that all registered nurses providing telephone
7 medical advice services to both in-state and out-of-state business
8 entities registered pursuant to this chapter are licensed pursuant
9 to Chapter 6 (commencing with Section 2700).

10 (3) Ensuring that the telephone medical advice provided is
11 consistent with good professional practice.

12 (4) Maintaining records of telephone medical advice services,
13 including records of complaints, provided to patients in
14 California for a period of at least five years.

15 (5) Ensuring that no staff member uses a title or designation
16 when speaking to an enrollee or subscriber that may cause a
17 reasonable person to believe that the staff member is a licensed,
18 certified, or registered professional described in subparagraph
19 (A) of paragraph (1), unless the staff member is a licensed,
20 certified, or registered professional.

21 (6) Complying with all directions and requests for information
22 made by the department.

23 (b) To the extent permitted by Article VII of the California
24 Constitution, the department may contract with a private
25 nonprofit accrediting agency to evaluate the qualifications of
26 applicants for registration pursuant to this chapter and to make
27 recommendations to the department.

28 SEC. 30. Section 4999.7 of the Business and Professions
29 Code is amended to read:

30 4999.7. (a) Nothing in this section shall limit, preclude, or
31 otherwise interfere with the practices of other persons licensed or
32 otherwise authorized to practice, under any other provision of
33 this division, telephone medical advice services consistent with
34 the laws governing their respective scopes of practice, or licensed
35 under the Osteopathic Initiative Act or the Chiropractic Initiative
36 Act and operating consistent with the laws governing their
37 respective scopes of practice.

38 (b) For the purposes of this chapter, “telephone medical
39 advice” means a telephonic communication between a patient
40 and a health care professional in which the health care

professional's primary function is to provide to the patient a telephonic response to the patient's questions regarding his or her or a family member's medical care or treatment. "Telephone medical advice" includes assessment, evaluation, or advice provided to patients or their family members.

(c) For the purposes of this chapter, "health care professional" is a staff person described in Section 4999.2 who provides medical advice services and is appropriately licensed, certified, or registered as a registered nurse pursuant to Chapter 6 (commencing with Section 2700), as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act, as a dentist or dental hygienist pursuant to Chapter 4 (commencing with Section 1600), as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900), as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980), as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990), as an optometrist pursuant to Chapter 7 (commencing with Section 3000), or as a chiropractor pursuant to the Chiropractic Initiative Act, and who is operating consistent with the laws governing his or her respective scopes of practice in the state in which he or she provides telephone medical advice services.

SEC. 31. Section 44876 of the Education Code is amended to read:

44876. The qualifications for a dental hygienist shall be a valid license issued by the California Dental Hygiene Bureau or by the Dental Board of California and either a health and development credential, a standard designated services credential with a specialization in health, or a services credential with a specialization in health.

SEC. 32. Section 1348.8 of the Health and Safety Code is amended to read:

1348.8. (a) Every health care service plan that provides, operates, or contracts for, telephone medical advice services to its enrollees and subscribers shall do all of the following:

(1) Ensure that the in-state or out-of-state telephone medical advice service is registered pursuant to Chapter 15 (commencing with Section 4999) of Division 2 of the Business and Professions Code.

(2) Ensure that the staff providing telephone medical advice services for the in-state or out-of-state telephone medical advice service are licensed as follows:

(A) For full service health care service plans, the staff hold a valid California license as a registered nurse or a valid license in the state within which they provide telephone medical advice services as a physician and surgeon or physician assistant, and are operating in compliance with the laws governing their respective scopes of practice.

(B) (i) For specialized health care service plans providing, operating, or contracting with a telephone medical advice service in California, the staff shall be appropriately licensed, registered, or certified as a physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or the Osteopathic Initiative Act, as a registered nurse pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code, as a dentist or a dental hygienist pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code, as a psychologist pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code, as a marriage and family therapist pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, as a licensed clinical social worker pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code, as an optometrist pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or as a chiropractor pursuant to the Chiropractic Initiative Act, and operating in compliance with the laws governing their respective scopes of practice.

(ii) For specialized health care service plans providing, operating, or contracting with an out-of-state telephone medical advice service, the staff shall be health care professionals, as identified in clause (i), who are licensed, registered, or certified in the state within which they are providing the telephone medical advice services and are operating in compliance with the laws governing their respective scopes of practice. All registered nurses providing telephone medical advice services to both in-state and out-of-state business entities registered pursuant to

1 this chapter shall be licensed pursuant to Chapter 6 (commencing
2 with Section 2700) of Division 2 of the Business and Professions
3 Code.

4 (3) Ensure that every full service health care service plan
5 provides for a physician and surgeon who is available on an
6 on-call basis at all times the service is advertised to be available
7 to enrollees and subscribers.

8 (4) Ensure that staff members handling enrollee or subscriber
9 calls, who are not licensed, certified, or registered as required by
10 paragraph (2), do not provide telephone medical advice. Those
11 staff members may ask questions on behalf of a staff member
12 who is licensed, certified, or registered as required by paragraph
13 (2), in order to help ascertain the condition of an enrollee or
14 subscriber so that the enrollee or subscriber can be referred to
15 licensed staff. However, under no circumstances shall those staff
16 members use the answers to those questions in an attempt to
17 assess, evaluate, advise, or make any decision regarding the
18 condition of an enrollee or subscriber or determine when an
19 enrollee or subscriber needs to be seen by a licensed medical
20 professional.

21 (5) Ensure that no staff member uses a title or designation
22 when speaking to an enrollee or subscriber that may cause a
23 reasonable person to believe that the staff member is a licensed,
24 certified, or registered professional described in Section 4999.2
25 unless the staff member is a licensed, certified, or registered
26 professional.

27 (6) Ensure that the in-state or out-of-state telephone medical
28 advice service designates an agent for service of process in
29 California and files this designation with the director.

30 (7) Requires that the in-state or out-of-state telephone medical
31 advice service makes and maintains records for a period of five
32 years after the telephone medical advice services are provided,
33 including, but not limited to, oral or written transcripts of all
34 medical advice conversations with the health care service plan's
35 enrollees or subscribers in California and copies of all
36 complaints. If the records of telephone medical advice services
37 are kept out of state, the health care service plan shall, upon the
38 request of the director, provide the records to the director within
39 10 days of the request.

1 (8) Ensure that the telephone medical advice services are
2 provided consistent with good professional practice.

3 (b) The director shall forward to the Department of Consumer
4 Affairs, within 30 days of the end of each calendar quarter, data
5 regarding complaints filed with the department concerning
6 telephone medical advice services.

7 (c) For the purposes of this section, “telephone medical
8 advice” means a telephonic communication between a patient
9 and a health care professional in which the health care
10 professional’s primary function is to provide to the patient a
11 telephonic response to the patient’s questions regarding his or her
12 or a family member’s medical care or treatment. “Telephone
13 medical advice” includes assessment, evaluation, or advice
14 provided to patients or their family members.

15 SEC. 33. Section 128160 of the Health and Safety Code is
16 amended to read:

17 128160. (a) Pilot projects may be approved in the following
18 fields:

19 (1) Expanded role medical auxiliaries.

20 (2) Expanded role nursing.

21 (3) Expanded role dental auxiliaries, dental hygienists, dental
22 hygienists in alternative practice, or dental hygienists in extended
23 functions.

24 (4) Maternal child care personnel.

25 (5) Pharmacy personnel.

26 (6) Mental health personnel.

27 (7) Other health care personnel including, but not limited to,
28 veterinary personnel, chiropractic personnel, podiatric personnel,
29 geriatric care personnel, therapy personnel, and health care
30 technicians.

31 (b) Projects that operate in rural and central city areas shall be
32 given priority.

33 SEC. 34. Section 14132 of the Welfare and Institutions Code
34 is amended to read:

35 14132. The following is the schedule of benefits under this
36 chapter:

37 (a) Outpatient services are covered as follows:

38 Physician, hospital or clinic outpatient, surgical center,
39 respiratory care, optometric, chiropractic, psychology, podiatric,
40 occupational therapy, physical therapy, speech therapy,

1 audiology, acupuncture to the extent federal matching funds are
2 provided for acupuncture, and services of persons rendering
3 treatment by prayer or healing by spiritual means in the practice
4 of any church or religious denomination insofar as these can be
5 encompassed by federal participation under an approved plan,
6 subject to utilization controls.

7 (b) Inpatient hospital services, including, but not limited to,
8 physician and podiatric services, physical therapy and
9 occupational therapy, are covered subject to utilization controls.

10 (c) Nursing facility services, subacute care services, and
11 services provided by any category of intermediate care facility
12 for the developmentally disabled, including podiatry, physician,
13 nurse practitioner services, and prescribed drugs, as described in
14 subdivision (d), are covered subject to utilization controls.
15 Respiratory care, physical therapy, occupational therapy, speech
16 therapy, and audiology services for patients in nursing facilities
17 and any category of intermediate care facility for the
18 developmentally disabled are covered subject to utilization
19 controls.

20 (d) Purchase of prescribed drugs is covered subject to the
21 Medi-Cal List of Contract Drugs and utilization controls.

22 (e) Outpatient dialysis services and home hemodialysis
23 services, including physician services, medical supplies, drugs
24 and equipment required for dialysis, are covered, subject to
25 utilization controls.

26 (f) Anesthesiologist services when provided as part of an
27 outpatient medical procedure, nurse anesthetist services when
28 rendered in an inpatient or outpatient setting under conditions set
29 forth by the director, outpatient laboratory services, and X-ray
30 services are covered, subject to utilization controls. Nothing in
31 this subdivision shall be construed to require prior authorization
32 for anesthesiologist services provided as part of an outpatient
33 medical procedure or for portable X-ray services in a nursing
34 facility or any category of intermediate care facility for the
35 developmentally disabled.

36 (g) Blood and blood derivatives are covered.

37 (h) Emergency and essential diagnostic and restorative dental
38 services, except for orthodontic, fixed bridgework, and partial
39 dentures that are not necessary for balance of a complete
40 artificial denture, are covered, subject to utilization controls. The

1 utilization controls shall allow emergency and essential
2 diagnostic and restorative dental services and prostheses that are
3 necessary to prevent a significant disability or to replace
4 previously furnished prostheses which are lost or destroyed due
5 to circumstances beyond the beneficiary's control.
6 Notwithstanding the foregoing, the director may by regulation
7 provide for certain fixed artificial dentures necessary for
8 obtaining employment or for medical conditions that preclude the
9 use of removable dental prostheses, and for orthodontic services
10 in cleft palate deformities administered by the department's
11 California Children Services Program.

12 (i) Medical transportation is covered, subject to utilization
13 controls.

14 (j) Home health care services are covered, subject to
15 utilization controls.

16 (k) Prosthetic and orthotic devices and eyeglasses are covered,
17 subject to utilization controls. Utilization controls shall allow
18 replacement of prosthetic and orthotic devices and eyeglasses
19 necessary because of loss or destruction due to circumstances
20 beyond the beneficiary's control. Frame styles for eyeglasses
21 replaced pursuant to this subdivision shall not change more than
22 once every two years, unless the department so directs.

23 Orthopedic and conventional shoes are covered when provided
24 by a prosthetic and orthotic supplier on the prescription of a
25 physician and when at least one of the shoes will be attached to a
26 prosthesis or brace, subject to utilization controls. Modification
27 of stock conventional or orthopedic shoes when medically
28 indicated, is covered subject to utilization controls. When there is
29 a clearly established medical need that cannot be satisfied by the
30 modification of stock conventional or orthopedic shoes,
31 custom-made orthopedic shoes are covered, subject to utilization
32 controls.

33 Therapeutic shoes and inserts are covered when provided to
34 beneficiaries with a diagnosis of diabetes, subject to utilization
35 controls, to the extent that federal financial participation is
36 available.

37 (l) Hearing aids are covered, subject to utilization controls.
38 Utilization controls shall allow replacement of hearing aids
39 necessary because of loss or destruction due to circumstances
40 beyond the beneficiary's control.

1 (m) Durable medical equipment and medical supplies are
2 covered, subject to utilization controls. The utilization controls
3 shall allow the replacement of durable medical equipment and
4 medical supplies when necessary because of loss or destruction
5 due to circumstances beyond the beneficiary's control. The
6 utilization controls shall allow authorization of durable medical
7 equipment needed to assist a disabled beneficiary in caring for a
8 child for whom the disabled beneficiary is a parent, stepparent,
9 foster parent, or legal guardian, subject to the availability of
10 federal financial participation. The department shall adopt
11 emergency regulations to define and establish criteria for
12 assistive durable medical equipment in accordance with the
13 rulemaking provisions of the Administrative Procedure Act
14 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
15 Division 3 of Title 2 of the Government Code).

16 (n) Family planning services are covered, subject to utilization
17 controls.

18 (o) Inpatient intensive rehabilitation hospital services,
19 including respiratory rehabilitation services, in a general acute
20 care hospital are covered, subject to utilization controls, when
21 either of the following criteria are met:

22 (1) A patient with a permanent disability or severe impairment
23 requires an inpatient intensive rehabilitation hospital program as
24 described in Section 14064 to develop function beyond the
25 limited amount that would occur in the normal course of
26 recovery.

27 (2) A patient with a chronic or progressive disease requires an
28 inpatient intensive rehabilitation hospital program as described in
29 Section 14064 to maintain the patient's present functional level
30 as long as possible.

31 (p) Adult day health care is covered in accordance with
32 Chapter 8.7 (commencing with Section 14520).

33 (q) (1) Application of fluoride, or other appropriate fluoride
34 treatment as defined by the department, other prophylaxis
35 treatment for children 17 years of age and under, are covered.

36 (2) All dental hygiene services provided by a registered dental
37 hygienist, a registered dental hygienist in alternative practice, or
38 a registered dental hygienist in extended functions pursuant to
39 Article 9 (commencing with Section 1900) of Chapter 4 of
40 Division 2 of the Business and Professions Code may be covered

1 as long as they are within the scope of Denti-Cal benefits and
2 they are necessary services provided by a registered dental
3 hygienist, a registered dental hygienist in alternative practice, or
4 a registered dental hygienist in extended functions.

5 (r) (1) Paramedic services performed by a city, county, or
6 special district, or pursuant to a contract with a city, county, or
7 special district.

8 (2) All providers enrolled under this subdivision shall satisfy
9 all applicable statutory and regulatory requirements for becoming
10 a Medi-Cal provider.

11 (3) This subdivision shall be implemented only to the extent
12 funding is available under Section 14106.6.

13 (s) In-home medical care services are covered when medically
14 appropriate and subject to utilization controls, for beneficiaries
15 who would otherwise require care for an extended period of time
16 in an acute care hospital at a cost higher than in-home medical
17 care services. The director shall have the authority under this
18 section to contract with organizations qualified to provide
19 in-home medical care services to those persons. These services
20 may be provided to patients placed in shared or congregate living
21 arrangements, if a home setting is not medically appropriate or
22 available to the beneficiary. As used in this section, “in-home
23 medical care service” includes utility bills directly attributable to
24 continuous, 24-hour operation of life-sustaining medical
25 equipment, to the extent that federal financial participation is
26 available.

27 As used in this subdivision, in-home medical care services,
28 include, but are not limited to:

29 (1) Level of care and cost of care evaluations.

30 (2) Expenses, directly attributable to home care activities, for
31 materials.

32 (3) Physician fees for home visits.

33 (4) Expenses directly attributable to home care activities for
34 shelter and modification to shelter.

35 (5) Expenses directly attributable to additional costs of special
36 diets, including tube feeding.

37 (6) Medically related personal services.

38 (7) Home nursing education.

39 (8) Emergency maintenance repair.

1 (9) Home health agency personnel benefits which permit
2 coverage of care during periods when regular personnel are on
3 vacation or using sick leave.

4 (10) All services needed to maintain antiseptic conditions at
5 stoma or shunt sites on the body.

6 (11) Emergency and nonemergency medical transportation.

7 (12) Medical supplies.

8 (13) Medical equipment, including, but not limited to, scales,
9 gurneys, and equipment racks suitable for paralyzed patients.

10 (14) Utility use directly attributable to the requirements of
11 home care activities which are in addition to normal utility use.

12 (15) Special drugs and medications.

13 (16) Home health agency supervision of visiting staff which is
14 medically necessary, but not included in the home health agency
15 rate.

16 (17) Therapy services.

17 (18) Household appliances and household utensil costs
18 directly attributable to home care activities.

19 (19) Modification of medical equipment for home use.

20 (20) Training and orientation for use of life support systems,
21 including, but not limited to, support of respiratory functions.

22 (21) Respiratory care practitioner services as defined in
23 Sections 3702 and 3703 of the Business and Professions Code,
24 subject to prescription by a physician and surgeon.

25 Beneficiaries receiving in-home medical care services are
26 entitled to the full range of services within the Medi-Cal scope of
27 benefits as defined by this section, subject to medical necessity
28 and applicable utilization control. Services provided pursuant to
29 this subdivision, which are not otherwise included in the
30 Medi-Cal schedule of benefits, shall be available only to the
31 extent that federal financial participation for these services is
32 available in accordance with a home- and community-based
33 services waiver.

34 (t) Home- and community-based services approved by the
35 United States Department of Health and Human Services may be
36 covered to the extent that federal financial participation is
37 available for those services under waivers granted in accordance
38 with Section 1396n of Title 42 of the United States Code. The
39 director may seek waivers for any or all home- and
40 community-based services approvable under Section 1396n of

1 Title 42 of the United States Code. Coverage for those services
2 shall be limited by the terms, conditions, and duration of the
3 federal waivers.

4 (u) Comprehensive perinatal services, as provided through an
5 agreement with a health care provider designated in Section
6 14134.5 and meeting the standards developed by the department
7 pursuant to Section 14134.5, subject to utilization controls.

8 The department shall seek any federal waivers necessary to
9 implement the provisions of this subdivision. The provisions for
10 which appropriate federal waivers cannot be obtained shall not be
11 implemented. Provisions for which waivers are obtained or for
12 which waivers are not required shall be implemented
13 notwithstanding any inability to obtain federal waivers for the
14 other provisions. No provision of this subdivision shall be
15 implemented unless matching funds from Subchapter XIX
16 (commencing with Section 1396) of Chapter 7 of Title 42 of the
17 United States Code are available.

18 (v) Early and periodic screening, diagnosis, and treatment for
19 any individual under 21 years of age is covered, consistent with
20 the requirements of Subchapter XIX (commencing with Section
21 1396) of Chapter 7 of Title 42 of the United States Code.

22 (w) Hospice service that is Medicare-certified hospice service
23 is covered, subject to utilization controls. Coverage shall be
24 available only to the extent that no additional net program costs
25 are incurred.

26 (x) When a claim for treatment provided to a beneficiary
27 includes both services which are authorized and reimbursable
28 under this chapter, and services which are not reimbursable under
29 this chapter, that portion of the claim for the treatment and
30 services authorized and reimbursable under this chapter shall be
31 payable.

32 (y) Home- and community-based services approved by the
33 United States Department of Health and Human Services for
34 beneficiaries with a diagnosis of AIDS or ARC, who require
35 intermediate care or a higher level of care.

36 Services provided pursuant to a waiver obtained from the
37 Secretary of the United States Department of Health and Human
38 Services pursuant to this subdivision, and which are not
39 otherwise included in the Medi-Cal schedule of benefits, shall be
40 available only to the extent that federal financial participation for

1 these services is available in accordance with the waiver, and
2 subject to the terms, conditions, and duration of the waiver.
3 These services shall be provided to individual beneficiaries in
4 accordance with the client's needs as identified in the plan of
5 care, and subject to medical necessity and applicable utilization
6 control.

7 The director may under this section contract with organizations
8 qualified to provide, directly or by subcontract, services provided
9 for in this subdivision to eligible beneficiaries. Contracts or
10 agreements entered into pursuant to this division shall not be
11 subject to the Public Contract Code.

12 (z) Respiratory care when provided in organized health care
13 systems as defined in Section 3701 of the Business and
14 Professions Code, and as an in-home medical service as outlined
15 in subdivision (s).

16 (aa) (1) There is hereby established in the department, a
17 program to provide comprehensive clinical family planning
18 services to any person who has a family income at or below 200
19 percent of the federal poverty level, as revised annually, and who
20 is eligible to receive these services pursuant to the waiver
21 identified in paragraph (2). This program shall be known as the
22 Family Planning, Access, Care, and Treatment (Family PACT)
23 Waiver Program.

24 (2) The department shall seek a waiver for a program to
25 provide comprehensive clinical family planning services as
26 described in paragraph (8). The program shall be operated only in
27 accordance with the waiver and the statutes and regulations in
28 paragraph (4) and subject to the terms, conditions, and duration
29 of the waiver. The services shall be provided under the program
30 only if the waiver is approved by the federal Health Care
31 Financing Administration in accordance with Section 1396n of
32 Title 42 of the United States Code and only to the extent that
33 federal financial participation is available for the services.

34 (3) Solely for the purposes of the waiver and notwithstanding
35 any other provision of law, the collection and use of an
36 individual's social security number shall be necessary only to the
37 extent required by federal law.

38 (4) Sections 14105.3 to 14105.39, inclusive, 14107.11, 24005,
39 and 24013, and any regulations adopted under these statutes shall
40 apply to the program provided for under this subdivision. No

1 other provision of law under the Medi-Cal program or the
2 State-Only Family Planning Program shall apply to the program
3 provided for under this subdivision.

4 (5) Notwithstanding Chapter 3.5 (commencing with Section
5 11340) of Part 1 of Division 3 of Title 2 of the Government
6 Code, the department may implement, without taking regulatory
7 action, the provisions of the waiver after its approval by the
8 federal Health Care Financing Administration and the provisions
9 of this section by means of an all-county letter or similar
10 instruction to providers. Thereafter, the department shall adopt
11 regulations to implement this section and the approved waiver in
12 accordance with the requirements of Chapter 3.5 (commencing
13 with Section 11340) of Part 1 of Division 3 of Title 2 of the
14 Government Code. Beginning six months after the effective date
15 of the act adding this subdivision, the department shall provide a
16 status report to the Legislature on a semiannual basis until
17 regulations have been adopted.

18 (6) In the event that the Department of Finance determines that
19 the program operated under the authority of the waiver described
20 in paragraph (2) is no longer cost effective, this subdivision shall
21 become inoperative on the first day of the first month following
22 the issuance of a 30-day notification of that determination in
23 writing by the Department of Finance to the chairperson in each
24 house that considers appropriations, the chairpersons of the
25 committees, and the appropriate subcommittees in each house
26 that considers the State Budget, and the Chairperson of the Joint
27 Legislative Budget Committee.

28 (7) If this subdivision ceases to be operative, all persons who
29 have received or are eligible to receive comprehensive clinical
30 family planning services pursuant to the waiver described in
31 paragraph (2) shall receive family planning services under the
32 Medi-Cal program pursuant to subdivision (n) if they are
33 otherwise eligible for Medi-Cal with no share of cost, or shall
34 receive comprehensive clinical family planning services under
35 the program established in Division 24 (commencing with
36 Section 24000) either if they are eligible for Medi-Cal with a
37 share of cost or if they are otherwise eligible under Section
38 24003.

39 (8) For purposes of this subdivision, “comprehensive clinical
40 family planning services” means the process of establishing

1 objectives for the number and spacing of children, and selecting
2 the means by which those objectives may be achieved. These
3 means include a broad range of acceptable and effective methods
4 and services to limit or enhance fertility, including contraceptive
5 methods, federal Food and Drug Administration approved
6 contraceptive drugs, devices, and supplies, natural family
7 planning, abstinence methods, and basic, limited fertility
8 management. Comprehensive clinical family planning services
9 include, but are not limited to, preconception counseling,
10 maternal and fetal health counseling, general reproductive health
11 care, including diagnosis and treatment of infections and
12 conditions, including cancer, that threaten reproductive
13 capability, medical family planning treatment and procedures,
14 including supplies and followup, and informational, counseling,
15 and educational services. Comprehensive clinical family
16 planning services shall not include abortion, pregnancy testing
17 solely for the purposes of referral for abortion or services
18 ancillary to abortions, or pregnancy care that is not incident to
19 the diagnosis of pregnancy. Comprehensive clinical family
20 planning services shall be subject to utilization control and
21 include all of the following:

22 (A) Family planning related services and male and female
23 sterilization. Family planning services for men and women shall
24 include emergency services and services for complications
25 directly related to the contraceptive method, federal Food and
26 Drug Administration approved contraceptive drugs, devices, and
27 supplies, and followup, consultation, and referral services, as
28 indicated, which may require treatment authorization requests.

29 (B) All United States Department of Agriculture, federal Food
30 and Drug Administration approved contraceptive drugs, devices,
31 and supplies that are in keeping with current standards of practice
32 and from which the individual may choose.

33 (C) Culturally and linguistically appropriate health education
34 and counseling services, including informed consent, that include
35 all of the following:

- 36 (i) Psychosocial and medical aspects of contraception.
- 37 (ii) Sexuality.
- 38 (iii) Fertility.
- 39 (iv) Pregnancy.
- 40 (v) Parenthood.

- 1 (vi) Infertility.
- 2 (vii) Reproductive health care.
- 3 (viii) Preconception and nutrition counseling.
- 4 (ix) Prevention and treatment of sexually transmitted infection.
- 5 (x) Use of contraceptive methods, federal Food and Drug
- 6 Administration approved contraceptive drugs, devices, and
- 7 supplies.
- 8 (xi) Possible contraceptive consequences and followup.
- 9 (xii) Interpersonal communication and negotiation of
- 10 relationships to assist individuals and couples in effective
- 11 contraceptive method use and planning families.
- 12 (D) A comprehensive health history, updated at next periodic
- 13 visit (between 11 and 24 months after initial examination) that
- 14 includes a complete obstetrical history, gynecological history,
- 15 contraceptive history, personal medical history, health risk
- 16 factors, and family health history, including genetic or hereditary
- 17 conditions.
- 18 (E) A complete physical examination on initial and subsequent
- 19 periodic visits.
- 20 (ab) Purchase of prescribed enteral formulae is covered,
- 21 subject to the Medi-Cal list of enteral formulae and utilization
- 22 controls.
- 23 (ac) Diabetic testing supplies are covered when provided by a
- 24 pharmacy, subject to utilization controls.
- 25 SEC. 35. No reimbursement is required by this act pursuant
- 26 to Section 6 of Article XIII B of the California Constitution
- 27 because the only costs that may be incurred by a local agency or
- 28 school district will be incurred because this act creates a new
- 29 crime or infraction, eliminates a crime or infraction, or changes
- 30 the penalty for a crime or infraction, within the meaning of
- 31 Section 17556 of the Government Code, or changes the
- 32 definition of a crime within the meaning of Section 6 of Article
- 33 XIII B of the California Constitution.